
AN ADDRESS

TO

THE RIGHT HONOURABLE THE PEERS

OF

THE UNITED KINGDOM,

&c.

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OF THE

UNITED KINGDOM

OF

GREAT BRITAIN AND IRELAND;

FROM

MARY, COUNTESS OF BERKELEY



LONDON:

PRINTED FOR E. WILLIAMS,
BOOKSELLER TO THE DUKE AND DUCHESS OF YORK,
NO. 11, STRAND.

1811.

Entered at Stationers' Hall.

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&c.

MY LORDS,

WHEN I appeared in your Lordships' House as a witness in support of the claim of my eldest son to succeed to the title and honours of his father, the late Earl of Berkeley, I felt the most grateful conviction that your Lordships' decision would secure to him that birthright, which the imprudent conduct of his parents had seriously endangered; for, my Lords, I

was not only conscious of the justice of his claim, but had been assured by grave and learned men, that those difficulties which such misconduct had thrown in the way of his succession, had by their timely precaution been happily removed. Your Lordships, however, have decided that my son's claim was not made out, and it is not my purpose to question the judicial rectitude of such decision, however I may bewail it; but, regarding it as the result of the sound application of those rules and principles of law upon which your Lordships are judicially bound to proceed, I should hope that I may be permitted respectfully to submit to your consideration, as individuals, the reasons which induce me to think, that, however such decision may affect the claim, it ought not to prejudice the moral character of those who came forward in support of it.

I am aware, my Lords, that legal claims must be made out by legal evi-

dence; but as the most perfect system of evidence, however admirably calculated to the general purposes of truth and justice, is not adapted to every possible case, it may sometimes happen, that a claim destitute of all moral foundation may succeed by the application of a general rule, and the best morally founded fail from the want of that particular evidence which is legally necessary to support it; but your Lordships, as individuals, in forming a private opinion, are free, nay, in candour, are often bound, to advert to circumstances which upon general principles may be wisely excluded from judicial consideration, and, under the impression of such circumstances, to alleviate by your sympathy the painful effect of your judgment. To prove myself entitled to such sympathy is the purpose of this address to your Lordships, as the Co-Peers of a beloved husband, whose fame it is my duty to protect, and to prove that it was never tarnished by my conduct.

As my son's claim was founded upon a marriage had between his parents previously to his birth, I was called upon as a witness to establish such marriage; and as upon the credit due to me, the success of his claim would principally depend, I hope your Lordships will allow me, in referring to my general character and conduct, to avail myself of the testimony of one, whose testimony I feel not more honourable to myself than to him, as it appears to be the free-will offering of his heart, at a moment when worldly considerations might have been supposed to have most strongly prejudiced him against me: I allude to Admiral Berkeley, who, though he complains of his brother's want of confidence in not having sooner communicated the circumstance of his marriage to him, expresses himself in terms of the most gratifying approbation of the object of his choice.

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My Lords, on the 5th December, 1797,

I wrote to Admiral Berkeley, then Captain Berkeley, as follows:—

MY DEAR CAPT. BERKELEY,

Dec. 1797.

THE reasons being in some measure done away which caused your brother to conceal his marriage with me, it is with pleasure I embrace the first moment I have his permission to write to you, to tell you *not* of my marriage (for that I think you must have been certain of long ago), but that as I had all the affection and attention from you of the kindest brother, when called Miss Tudor, so I trust you will continue to be to me in my present situation. I have ever loved you with the sincerest friendship, and with pleasure have seen the affection between you and Lord Berkeley, which I hope and trust will continue, to the end of your lives, without interruption; if at any time I can be instrumental in doing any thing in the country for you, or in any place that can give you pleasure, my happiness will be increased by it; for, though I shall no longer meet the world with the same face I have seen it for ten years past, I trust I shall never forget that no name, rank, or family, can give me more honourable principles than those I had under that name.

I remain your affectionate sister,

MARY BERKELEY.

My Lords, I, in answer to this commu-

nication, received the following letter, bearing date 7th Dec. 1797.

MY DEAR SISTER,

Goodwood, Dec. 7th.

YOUR letter now informs me, for the first time, that I may call you by that name, and I can only repeat to you what I have always said to my brother, that whatever contributes most to his happiness, satisfaction, or honour, will always give me pleasure; but "I must lament very sincerely that any reasons should have existed which could make it necessary to keep a secret from me, what all the world (except myself) believed, and this incredulity of mine was rivetted by feeling *myself* that nothing which created either joy or sorrow, or that no sensations of interest or happiness, should have harboured in the breast of one brother which ought not to have been shared by the other. But, perhaps I may be mistaken, and it may be the feelings of a heart a little tinctured with romantic notions: such as that heart is, however, I offer it to you, with the firmest assurance that it shall beat with the affection of a brother towards you and yours; and I shall feel very, *very* much disappointed indeed in the opinion I have formed of your mind, if you do not accept it as warmly, as nobly, and as affectionately, as I offer it.

I shall probably see you in London after Christmas, when I shall be able to say more than I can in a letter

upon this subject; in the mean time, I beg you to think of me as yours,

Most sincerely and affectionately,

G. BERKELEY.

Such, my Lords, was the affectionate style of his correspondence when he first addressed me as his sister, and such has it continued ever since; but, my Lords, though I regard this letter as a pledge of affection, the following letter from him to his brother, of the same date, I proudly value, as a testimonial of that conduct which my principles have dictated from my earliest infancy, and which at this moment I rely upon as my best support.

MY DEAR BROTHER,

Goodwood, Dec. 7th, 1797.

I THIS day received a letter from Lady Berkeley, by your desire, informing me of your marriage, of which she says *I must have been certain for some time past*. Under this impression, I must have appeared to her unfeeling and rude, and I therefore hope you will so far justify me, as to explain to her, why I was the last person to give credit to the report, as in my conversation with you at Cranford I stated my reasons

why I ought not to be so ; and how unkind and unfeeling such treatment would appear to the world, that a brother (putting aside every other consideration which adds force to it), whose whole mind and heart was devoted to your honour, welfare, and happiness, should be the last person to hear of such an event, is, I must own, the severest blow my affection has ever met with. It is not what I deserved. It shews you neither knew my mind, studied my heart, nor felt the real affection I bear you. It makes me imagine you think my principles so little, so narrow, and so selfish, that I should not rejoice at your happiness and comfort, because a distant part of my worldly views would be crossed by it. How little you know me, how injuriously have you judged of my sentiments, if such are your ideas ! I take God to witness, that my own interests have been a secondary thought, wherever yours appeared. Your happiness and misfortunes have been mine. Your honour has formed a part of my glory ; and he who declared himself your enemy was sure to meet a declared and mortal foe in me. It is with these sensations towards you, that I have a right to say, that you have treated me with unkindness ; and after I have told you so, and that you feel it, I have done, and my love and affection shall not suffer an abatement. With respect to the marriage itself, whatever your feelings are about it, they are mine. If my opinion is not partially erroneous, you have made a choice, who will prove herself not unworthy the high situation you have raised her to ;

she possesses honour, religion, and a most attentive love to your children; and to all your interests and affairs she has proved a most zealous and watchful guardian. If you had chosen from a throne, you perhaps might not have met a better. I have admired and loved her for these qualities, and for her own sake; I shall now love her, if possible, more for yours, and, by every attention in my power, make her feel towards me as an affectionate sister. Forgive me, dear brother, if any expressions I have made use of should vex you; but I am hurt beyond what I can express at the want of confidence you have shewn towards *me*. You may perhaps be able to assign some reasons which I may be unacquainted with; if so, do not hesitate, for you will restore my mind to happiness, and you will make me believe I have again resumed that situation, which I prized beyond any other, that of being not only your most affectionate brother, but

The sincerest of your friends,

G. BERKELEY.

In addition to these valuable testimonials I might have referred to the countenance, might I not, my Lords, have said, the honourable friendship of persons whose countenance and friendship must ever be regarded as pledges of at least the honour and integrity of those to whom

such sentiments ere extended? But, my Lords, though gratitude calls upon me to acknowledge those condescensions, a better feeling than pride compels me at present to reject every advantage which my wounded character might derive from their influence; and I advert to them here merely to preserve that continuity which is necessary to shew, that I had not in the opinion of the most illustrious by birth, and the most distinguished by talents and integrity, forfeited in the year 1810 a particle of my claim to that respect which the worthy Admiral had acknowledged as my due in 1797.

My Lords, before I apply myself to the points in which my evidence is supposed to be objectionable, I beg to assure your Lordships, that though it may be faulty in some minute circumstances, they were merely accidental, and of which even now I am not conscious (except as to my residence in Bruton-street and Lower Grosve-

nor-street, circumstances which had escaped my attention at one period in the course of my examination, but which I recollected before my cross-examination was completed, and requested Sergeant Best to interrogate me, so as to possess your Lordships of the fact, it being my most anxious wish that your Lordships should be in possession of every circumstance to which any importance could be supposed to attach, whether its tendency was to establish or weaken the claim of my eldest son).

I shall now proceed to the points on which I am supposed to have given, not merely erroneous, but wilfully false testimony—points upon which, from their nature, I could not be mistaken, as they were within my immediate knowledge, and to which from their importance my attention must necessarily have been most anxiously applied.

Having stated that I was acquainted

with Lord Berkeley ever since I was a girl at school, and that wherever I was Lord Berkeley found me out and followed me, and that I left Gloucester to avoid him ; but that I purposely met him in the year 1784 at Lenham ; I am supposed to have stated that which is false, as to my knowing Lord Berkeley prior to 1785, and that “which is supposed to be inconsistent, with reference to my motive for leaving Gloucester.

I shall not, at present, avail myself of the testimony of those persons, Mr. Stock, and Mr. Piff (though I believe it to be correct), who spoke to having seen Lord Berkeley walking before the house in which I was in 1783, and occasionally speaking to me ; but I feel it due to them to assure your Lordships, that though they cannot boast of high birth, they are regarded in the city of Gloucester as men of great integrity, and sorry indeed I was to hear that they had been referred to under the general de-

scription of the Butchers of Gloucester ; for, my Lords, I cannot but congratulate even your august Assembly, that it was once informed by the profound wisdom of a Wolsey, and was but a few years ago graced by the mild and Christian virtues of a Moore, both of whom, my Lords, were the sons of butchers, and who, I think, cannot be named but as striking illustrations, that a man in the humblest of conditions may so train his mind to wisdom, and his heart to virtue, as to break down the barrier that the pride of ancestry would sometimes interpose, and present his superior merit as a passport to his Sovereign, and as his recommendation to fill the highest offices of the State. But, my Lords, I do not mean to observe upon the evidence of these witnesses, respectable as it is: I shall proceed at once to the testimony of a witness who was called by the opponent of my son's claim, for a very different purpose.

Mr. Mayers, a silversmith, described his

shop in Westgate-street, Gloucester, as being directly opposite to Mr. Farren's, at whose house I was in May, 1785, and that Lord Berkeley and other officers of the South Gloucester militia, which he says was then out, were in the habit of coming to his shop, and, as he suspected, to look at his opposite neighbours, who were then the Miss Coles.

The witness had no doubt but that this took place in May or June, 1785; and he is the more confident of it, as Lord Berkeley did him the honour of purchasing a seal from him. This testimony is very distinct, circumstantial, and positive, and had all the appearance of its being the result of due deliberation; notwithstanding which, my Lords, it turns out to be erroneous in almost every particular: the militia was not out in 1785; the Miss Coles were not in Westgate but in Southgate street in May or June, 1785, Mr. Farren having removed from Westgate-street; so that from the wit-

ness's house the Miss Coles could not be seen ; and Lord Berkeley did not buy a seal of the witness in 1785, but, as he afterwards admitted, at a period long subsequent, name/y, in 1789.

I shall not observe upon the imprudence of persons taking upon themselves to speak with so much confidence in their memory of events that occurred so many years ago. The present instance is, however, a striking illustration of the caution with which such evidence ought to be judicially proceeded upon, as the high and irreproachable character of Mr. Mayers was peculiarly calculated to secure full credit to his testimony, had not its incorrectness been in part discovered by others, and in part on a subsequent day admitted by himself ; but, though the witness was mistaken in point of time, I believe him, my Lords, to be correct in substance, for such was the practice of Lord Berkeley and his officers, when the militia was in Gloucester in March, 1783,

and Farren was then living in Westgate-street; and I and my sister, whose name then was Cole, and who afterwards in 1784 took, and in 1785, as noticed by the witness, went by, the name of Turner, were then, in 1783 (if not living with him), very much at his house. But in this view of the evidence, my Lords, it not only wholly fails as to the purpose for which it was adduced, but supports my statement, that Lord Berkeley knew me before I left Gloucester, in 1783, and throws, as I submit to your Lordships, a strong light upon the evidence of Mr. Willey.

This gentleman was also extremely confident that the militia was out in Gloucester, in 1785, in which point, however, he is also mistaken; but, as that is not the principal ground upon which he proceeds, I shall not observe upon the error.

He states that in the May meeting of 1785, I being in Farren's shop, in Westgate-

would have felt the sincerest anxiety to do that which I now solicit—to alleviate, by your sympathy, the painful effect of your judgment.

The declarations of the Earl of Berkeley, my Lords, in and subsequent to 1799, may be ascribed to the impulse of remorse; and I will ask whether, if they can be ascribed to the most sincere and heartfelt repentance, they ought to be imputed to the foul purpose of robbing his younger child of those legal rights, which his birth had cast upon him, and that, by the means of forgery and perjury? His purpose could not be to exclude a stranger, or a collateral relation, from those honours which he was to transmit. The right of succession was unquestionably in one of his own children, and they may both be regarded as having been equally dear to his affection, and neither of them had attained that age which would allow of conduct having produced much personal preference. To transfer

awful period your Lordships will find him repeating his declarations (see Appendix, No. 5) that he was married in 1785, and, in the agony of remorse, confessing to me that which nothing but the highest considerations could induce me to repeat, that he had married me in 1785 merely to get possession of my person, and never intending to acknowledge me as his wife. Is it credible, my Lords, that, at such a moment, the most abandoned of mankind should have employed himself in fabricating falsehood with a view to brand his own memory, and to lower him in general estimation? If your Lordships, who rejected the evidence of such declarations, had yourselves heard them, your judicial decision, as to their legal admissibility, must have been the same; but I think, my Lords, I may venture to affirm, that you could not have retired from your respective seats in judicature, but under the moral conviction that such declarations were true; and, under that conviction,

ing deceived his friends by the grossest misrepresentations, but of having also sworn, at least, rashly, in 1796, when he obtained the licence for his second marriage?

The pressure of remorse, my Lords, might impel him to brave the consequences of the confession of misconduct; but, if he was conscious of innocence, I cannot conceive a motive that could induce him voluntarily to charge himself with guilt. Of such contempt of public opinion human experience furnishes no instance, and, for the honour of human nature, I trust, my Lords, that your Lordships will not presume it; especially when you refer to what appears to have been his Lordship's subsequent conduct, at a period when he contemplated his dissolution as fast approaching, and when he appears to have rested his best hope of forgiveness from his God, on the sincerity of his anxiety to do justice to his fellow-men. At that

March, 1796, repeatedly declared that he was not married, and that, in order to procure the licence for his marriage in 1796, he made oath to the same effect, are facts which have been much observed upon; but, such having been his conduct for a series of years, he could not, my Lords, but be aware of the obloquy that might attach to him from any declaration that he might then make to the contrary. If, however, he was conscious that his former conduct had been wrong, and cruel to his family, and he sincerely repented of it; I think I may venture, my Lords, to affirm, that it was his duty to confess it; and, by so doing, repair, so far as he could, the mischief he had done, and prevent the still greater mischiefs that his perseverance in such deception was likely to occasion. If, on the contrary, my Lords, his former declarations were true, what could be the temptation that could induce him, by wilful and deliberate perjury, to take upon himself the opprobrium of not only hav-

in consequence of a search made by the advice of another Counsel of great eminence, who suggested that possibly some traces of it, either in the parish register, or among the late Mr. Hupsman's papers, might remain.

“ In pursuance of this advice a very careful search was made, and the result has been such, as has been related to the Committee. .

“ But, if the least doubt should remain in the breast of any Noble Lord, as to the fact of my first marriage, Lady Berkeley and myself are willing to give our personal testimony of it, in any manner the Committee may think proper to require ; for I can no longer withhold the justice which I feel due to my wife and children, nor suffer them to remain victims of my family pride, or my own false notions of honour.”

Such being Lord Berkeley's declaration in 1799, which is fully confirmed by his deposition in the suit to perpetuate testimony in 1801, (see Appendix, No. 4,) will your Lordships permit me to call your attention to the circumstances under which such declaration and deposition were made ?

That Lord Berkeley had, previously to

lines, saying, in every thing I should be obeyed; nor was I aware of the latitude I had given him till afterwards, when he wanted money, I heard from him, that he had risked his life for me in destroying the register; and until that moment I knew not the penalty.

“Circumstanced as I was, I could not in honour do any thing that might expose him to punishment. What then was to be done? In case Mr. Hupsman outlived me, or Mr. Tudor should die, who ran more risks of death from his public capacity, what then would be Lady Berkeley’s situation? What proof could she bring of her marriage? How be heard in the world? As soon, therefore, as the causes of secrecy were removed, we were married again; and I am sure the Committee will feel, in my situation, that the second marriage must, at all events, have been a prudential step.

“As to the manner in which the baptisms of my children were registered, it was the natural and necessary consequence of that secrecy. I thought it might have been impossible to prove my first marriage without the registration of it, and consequently not only the children I then had, but any other I might have, would be deemed illegitimate. I did not, however, risk this measure until I had been informed by an eminent Counsel that such second marriage could not have the effect of invalidating my first, in case the solemnization of it could be proved.

“The registration of my first marriage was discovered

occasion calls forth all the feelings that can oppress human nature, as a father and a husband.

“I come, my Lords, to do justice to a wife and children, who, I trust, will not suffer from my seeming inconsistency of conduct.

“As to my reasons for concealing my first marriage, I trust, the Committee will not press my declaring them publicly; I have imparted them to two of my friends, Noble Lords, now present, who have acknowledged to me, and, I am sure, will pledge themselves to the Committee, that they are honourable reasons, of such a nature as cannot, without the most serious consequences to a very respectable family, be made public.

“The ceremony of the second marriage was gone through from the fullest conviction, on my part, that the registration of my first marriage was destroyed; and, as I had, in some measure, sanctioned the act, it was not in nature for me to bring Mr. Hupsman to punishment.

“Before I married first, I urged to Mr. Hupsman, in the strongest manner, the necessity of secrecy; but when I found, among other instances, that the late Sir J. Guise had written to my brother, saying, that the rumour was too strong not to be true, of a marriage having taken place between me and Lady Berkeley, which letter Admiral Berkeley shewed to a friend of mine, I then gave Mr. Hupsman to understand that he would forfeit my friendship for ever, if he did not prevent all possibility of discovery. I received in answer a few

my Lords, as I will not rely upon my own recollection, I must request your Lordships to refer to passages which I have extracted from the *Morning Chronicle*, of the 4th and 19th June, 1802, and which your Lordships will find in Appendix, No. 3.

My Lords, before I state the deposition of Lord Berkeley taken in that suit, allow me to submit to your consideration the speech which he made in your Lordships' House in the year 1799. I do not tender either the speech or deposition as legal evidence, but (as already stated) as moral proof, and shall hereafter call your Lordships' attention to the circumstances under which they were made, and the solemn declarations by which they were subsequently confirmed.

“ MY LORDS,

“ Relying on the candour of this Committee, who know that I am unused to public speaking, I come with the fullest confidence in your permitting me to read this paper, which contains facts: but the

some of your Lordships may recollect that Noble and Lcarned Lords were of opinion that such Committee ought not to be revived, because your Lordships could not entertain any question that might affect the rights of persons not parties to your proceedings, and that evidence taken with reference to such rights would be merely waste paper, and that it was wholly unnecessary that your Lordships' House should so apply itself, a suit having been instituted in the Court of Chancery for the purpose of recording and perpetuating such testimony as might be thought necessary to the justice of the case, and which would be evidence in every Court in the kingdom.

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My Lords, the circumstance of itself was calculated to produce a most lasting impression upon my mind, and my husband died happy, thinking his eldest son was sure to succeed to his birthright; and that he had atoned for his errors. But,

and brother, the deposition of Lord Berkeley, taken in a suit in Chancery to perpetuate testimony, was offered by the claimant; and the Solicitor-General, in waving his objection to its admissibility, expressly states, as his reasons for so doing, “that it would conduce more to the truth and justice of the case.” The Attorney-General, however, pressed the objection, and your Lordships rejected the evidence. My Lords, however I may lament the decision, I mean not to impeach it, though such evidence was once thought, by great and learned men, as evidence that might be received in any Court, whenever my son could prefer a claim to those honours which it was intended to secure to him.

Your Lordships have now upon your minutes the proceedings of a Committee of Privileges in the year 1799; and as some of your Lordships took part in those proceedings, and in the discussions of 1802, upon a motion to revive that Committee,

wound in his head which he received in his birth, in consequence of which he loses his self-possession whenever agitated or alarmed. My Lords, I have referred your Lordships to the testimony of Sir Brook Watson and Mr. Alderman Le Mesurier, conceiving it to be entitled to the highest respect, it being the testimony of two most honourable men, upon a point of which they were officially bound to be informed. And will your Lordships pardon my having, from my anxiety to bring you better acquainted with the character and feelings of a brother, whose veracity was never impeached until now, subjoined a letter from him to the late Earl of Berkeley, as a proof of his indifference to wealth, when not to be attained without even inconvenience to another; and to ask whether, with such feelings, he was likely to lend himself to purposes of fraud and perjury? See Appendix, No. 2.

In addition to the testimony of myself

My Lords, I have expressly sworn to such fact; and, as its nature is such as to exclude the possibility of my being mistaken, if that which I have so sworn be false, it must have been wilfully so; and I dare with confidence refer your Lordships to the whole tenour of my life, to evidence my love of truth, and detestation of falsehood.

My Lords, my brother, Mr. Tudor, who was present at the marriage, has also sworn to it; and as his evidence has been much observed upon, I feel it due to him to entreat your Lordships to look to the evidence given in the course of the proceedings by your Committee in 1799, by the late Sir Brook Watson and Mr. Alderman Le Mesurier, and which your Lordships will find in the Appendix, No. 1. That his evidence is confused I readily admit; but I had thought that the cause of its being so had been accounted for by his mother, in ascribing it to a

vance in life, letters of that description are generally destroyed, not being calculated to meet any eye, save that of the object to whom they are addressed). I now feel that I did wrong in so doing, and sincerely do I lament it; but, my Lords, however you may censure the indiscretion, I should hope that, in the absence of all evidence to affect me with falsehood, you will not feel yourselves called upon to conclude, that such documents never existed; more especially as I am not without hope that my letters to Lord Berkeley may still be found, though now misplaced, as he assured me that he had preserved them.

Having, my Lords, I hope satisfactorily, proved that I was acquainted with Lord Berkeley previously to 1785, I shall now request your Lordships' attention to the state, if not to the legal evidence, at least of the moral proof of the fact of a marriage having been had between me and his Lordship on the 30th March, 1785.

stance, my regard for truth prevailed over every other consideration, and I must rely upon my subsequent conduct having been such, as to repel every inference of a tendency injurious to my reputation. But, my Lords, it has been observed that this admission was inconsistent with the reason I had assigned for leaving Gloucester, namely, to avoid Lord Berkeley. My Lords, I really cannot feel the inconsistency; I fled from Lord Berkeley whilst his proposals were disgraceful, and I met him when he gave me to believe, that his intentions were honourable. But I am asked, “where are those documents which might have evidenced the intercourse between me and Lord Berkeley prior to 1785? Is it credible, that, if such documents ever existed, the parties should have destroyed them?” My Lords, I must, however, repeat what I have already stated upon oath, that letters from Lord Berkeley to me did exist, and that I did destroy them (and, my Lords, I believe, as we ad-

sations took place, or, being correct in that respect, that Lord Berkeley put the questions in order to appear wholly unacquainted with me, as previously agreed upon between us.

Having disposed of the evidence, which I believe is the *only evidence* relied upon in support of the allegation that I was not acquainted with Lord Berkeley prior to 1785, allow me to refer your Lordships to that part of my evidence which I certainly did not give without considerable reluctance,—I mean my admission, that, whilst I was with Mrs. Foot, I did once go to Lenham, purposely to meet Lord Berkeley. Your Lordships will, I am confident, readily conceive that my reluctance to make this admission, proceeded from the apprehension that it would appear to your Lordships a measure of at least indiscretion, and, as such, might lower me in your estimation. But, my Lords, however anxious I might be on this account to have concealed the circum-

street, and Lord Berkeley having seen him in conversation with me, his Lordship afterwards asked him who that pretty girl was, and at a subsequent period requested the witness to introduce him to me. Upon this testimony it is observable, that if Lord Berkeley had been in the habit of looking at me, when I was with Farren, in Westgate-street, it must have been at all events prior to May, 1785, and most probably in March, 1783 ; and if so, can it be seriously believed that Lord Berkeley, in May, 1785, had so wholly forgotten me as to inquire who I was ; or that he could have put such a question from any other motive than from the wish to appear not to know who I was ? And as I am willing to believe that the witness is correct in stating that Lord Berkeley did ask him the question, I think I may safely refer his motive to the observations which I have made upon it. The fair conclusion therefore, I submit to your Lordships, is, either that the witness is mistaken as to the date when these conver-

the acknowledged claim of the younger son to the first-born, would necessarily, even if effected, subject the Earl to much imputation. As a project of fraud, my Lords, it was full of danger; and even as a measure of justice it was exposed to difficulty; but, if conscience required it, the course which conscience prescribed, was to be pursued; and, under the pressure of that imperious call of duty, your Lordships may account for the Earl's subsequent conduct, when, in the fulness of health, or on the bed of sickness,—in the enjoyment of the friendship of the good and great, or in the gloomy and solitary hour of death,—you find him uniformly asserting his marriage in 1785, and the right of his first-born son to succeed to the title and honours of his Earldom.

My Lords, as a further proof of the fact of a marriage, evidence was offered of declarations made by the Rev. Augustus Thomas Hupsman, Vicar of Berkeley, that Lord and

Lady Berkeley weremarried by banns in the church of Berkeley, and that he had actually married them; but your Lordships were of opinion that such evidence could not be judicially received. It would ill become me to question the propriety of your Lordships' decision upon this point, however I must lament it; but I trust that I may be permitted to remark, that evidence of such declarations having been made by Hupsman, upwards of twenty years ago, does appear in the minutes of your proceedings in 1799. I admit, however, that if the evidence was then improperly received, it certainly ought not to operate as a precedent, and be binding on your Lordships; and I feel myself bound, in 1811, to presume, that it was inadvertently admitted in 1799. But allow me, my Lords, most respectfully to submit, that though such evidence was not legally admissible, it is entitled to serious attention in forming a moral opinion of the testimony of those whose evidence was to the same effect, and

with that view I have stated it in Appendix, No. 6.

Your Lordships have now before you, with a view to a moral judgment of my conduct, the concurrent affirmative testimony of four persons, upon a point upon which they cannot be mistaken, and upon which, if they have sworn or spoken falsely, they must have done so wilfully.

My Lords, I shall not detain your Lordships with further observations upon this part of the case, confident that your honourable feelings and enlightened understandings will induce your Lordships to require the most powerful evidence to repel the moral effect of that now before you.

I shall now, my Lords, draw your Lordships' attention to the registry of the banns of the marriage, submitting to your Lordships, that, if the hand-writing of the persons whose names appear to them be once

established, that mere presumptions ought not to prevail. My Lords, the registry of the banns having been published on the 28th November, 5th and 12th December, 1784, is signed by the Curate, Mr. Hupsman; and the question is, whether the signature was satisfactorily proved to be of his hand-writing? My Lords, Dr. Jenner, Mr. Carrington, and Mr. Bloxsom, have distinctly deposed to such signature being of the hand-writing of Mr. Hupsman; as likewise did Mrs. Routh, before the Committee in 1799; and the only testimony opposed is that of Mrs. Hupsman; for the Marquis of Buckingham does not speak to the registry of the banns, further than to state, that he “does not believe it to be the writing of Lord Berkeley, as far as he is a judge;” and as to the testimony of Mrs. Hickes, whose attention was likewise called to the hand-writing of her father, it may be proper to observe that she states many of the entries, having her father’s (Mr. Hupsman’s) signature, and, among others, that of her

own marriage, to be so unlike her father's hand-writing, that she should have doubted their being his. May I not, my Lords, venture to say that, after such an admission, little reliance can be had on her testimony? and as to that of Mrs. Hupsman, if standing alone, it can hardly pretend to the effect of destroying *that* of so many other persons.

My Lords, though I should hope that, if once your Lordships were satisfied that the registry was duly proved to be of the hand-writing of Mr. Hupsman, you would not allow your minds to be affected by considerations of more or less probability; yet, as a Noble and Learned Lord appears to have adverted to such considerations, I feel myself bound, by that deference which is due to his superior judgment, to follow him in his view of the subject. His Lordship seems to think it inconceivable, that a person of the rank of Lord Berkeley, the owner of Berkeley-Castle, (the church adjoining his castle,) living in the parish, in

which the ordinary congregation was not less than a hundred, if he meant the marriage to have been kept secret, as alleged, should chuse the parish-church of Berkeley, in which the banns were to be published, and in which the marriage was to be celebrated. He must have bargained with the Vicar that the banns should be inaudibly published ; because, says his Lordship, it is impossible they could be audibly published without defeating the very end.

My Lords, if your Lordships refer to Lord Berkeley's depositions, you will find how he describes the arrangement ; and, though your Lordships may highly disapprove of it, yet that very circumstance appears to me to entitle the statement to more credit, as nothing but the superior respect due to truth could have induced Lord Berkeley to state that, which might expose him to your Lordships' censure.

With respect to the circumstances of

the parish-clerk not having been called either in 1799 or 1802, and the suggestion that he had nothing to say, allow me, my Lords, to remark, that if, at either of those periods, his evidence had been thought material, it was not likely to be overlooked by those, who were principally engaged in the proceedings of those periods. His Grace the Duke of Richmond, and others, were not wanting of zeal, and cannot be supposed to be ignorant of the direction which it might most usefully receive.

My Lords, with respect to the suggestion that he had nothing to say, I, 'my Lords, can most truly state, that such was the impression of my mind when I so expressed myself to a Noble and Learned Lord, and such impression was produced by a memorandum that I had from Mr. Clark himself to that effect, and which memorandum I delivered to Messrs. Forster and Co., of which their managing clerk, Mr. Hone, has a distinct recollection. I, however, my Lords,

must admit, that, if positive testimony can be successfully controverted by remote inferences, or even rational conjecture, that Mr. Clark's evidence, as pregnant with that species of proof, is entitled to consideration. But, my Lords, I think I may confidently, but certainly most respectfully, submit to your Lordships, that his evidence does not, as to the publication of the banns, rise higher than that species of proof. It may induce your Lordships to suspect that the banns were not duly published on the days stated; but, my Lords, that suspicion would not affect my moral character or veracity; for, as to that fact, I could know nothing but that, of which I was informed by others, and it would be for your Lordships gravely to consider whether you could usefully and safely proceed upon such suspicion, in direct opposition to the respect due to the registry of them by the minister, whose duty it was to publish them.

My Lords, I will here leave the evidence

of the parish-clerk upon this point, and shall hereafter observe upon the other part of his evidence.

My Lords, with respect to the registry of the marriage, I feel the force of the observations of a Noble and Learned Lord, that “ this is not a case in which, if your Lordships can suppose the banns were duly published, you are at liberty to suppose there was a marriage upon the 30th March, 1785, and that there was no register made of that marriage upon the 30th March, 1785 ; for, those who have proposed to you that there was a marriage on the 30th March, 1785, have proposed it with this attendant circumstance,—says Lady Berkeley ;—at the time that marriage was entered into, that register was written ;—upon that day Lord Berkeley signed his name,—upon that day Mr. Hupsman signed his name. Her Ladyship says nothing about Barnes ; but Mr. Tudor says, in his evidence, that a fourth person signed or made his mark on that very day. Now, continues his Lord-

ship, if the register was not entered upon that very day, and if your Lordships cannot believe the witnesses who have sworn positively to the fact, I think you will find it very difficult to believe that a marriage took place on that day."

My Lords, I have drawn your Lordships' attention to these observations ascribed to a Noble and Learned Lord, because they appear to me to be peculiarly entitled to it ; they are not only the sentiments of one of your august Assembly, but of one whose professional and judicial experience gives to his opinions the most powerful weight in judicial proceedings, and therefore renders it of the greatest importance that those opinions should be in every respect correct.

My Lords, I admit that the date of the marriage, and also the date on which the registry was made, being specified, that this is not a case in which your Lordships are at liberty to suppose, from the circumstance of banns published, that there was

a marriage on the 30th March, 1785; but, with great deference to your Lordships, I submit, that, if you are satisfied that the banns were published, it is a circumstance calculated at least to lessen the alleged improbability of a marriage having been had on the 30th March, 1785, and the registry of it duly made at the time the marriage was so had; and I should further, submit to your Lordships, that if you are satisfied that the signatures to the registry of the marriage are sufficiently proved, that, in the absence of evidence to shew, that such registry was made on a subsequent day, your Lordships will presume it to have been made on the day on which it purports to bear date.

My Lords, that the signature "*Mary Cole*" is my hand-writing—that the signature "*Frederick Augustus Berkeley*" is Lord B.'s hand-writing—and that the signature "*William Tudor*" is Mr. Tudor's hand-writing—are points upon which I submit there is no doubt; and as to the

signature “ *Augustus Thomas Hupsman,*” I and Mr. Tudor have sworn to having seen him write it, and Dr. Jenner, Mr. Carrington, Mr. Bloxsom, and Mrs. Routh, have sworn, that they believe it to be the hand-writing of Mr. Hupsman. To prove that it was not his signature, his widow has given the same evidence that she gave as to the banns, and I shall leave it by referring to the observations that I have already made upon it ; but as the testimony of a Noble Marquis has been much relied upon, I must entreat your Lordships’ attention to it.

The Marquis of Buckingham says, that he believes that the signature “ *Augustus Thomas Hupsman, Vicar,*” and the words “ *the Mark of Richard Barnes,*” are all of the hand-writing of Lord Berkeley. His Lordship having professed to give his testimony with great regret, I am willing to believe he would be happy to find reason for changing his opinion ; and in that persuasion I shall more freely, but at the same

time most respectfully, observe upon it. The Noble Marquis does not appear to have been acquainted with the hand-writing of Mr. Hupsman, and therefore has not sworn that the entry, &c. are *not* of the hand-writing of Mr. Hupsman, but that he believes them to be of the hand-writing of Lord Berkeley. Several other respectable persons have sworn, that they believe them to be of the hand-writing of Mr. Hupsman; whence, my Lords, I think it might be inferred that the general hand-writing of Lord Berkeley and Mr. Hupsman bore a strong resemblance to each other; and, if so, the true question I submit to your Lordships will be, whether several persons acquainted with the hand-writing both of Lord Berkeley and Mr. Hupsman, or a single person acquainted with the hand-writing of Lord Berkeley only, were, or was, most likely to distinguish the hand-writing of each? If it should be said that there was not a general similitude in the hand-writing of Lord Berkeley and

Mr. Hupsman, and that Lord Berkeley has attempted to disguise his general hand-writing, in order to imitate that of Mr. Hupsman, I should still submit to your Lordships, that persons conversant with Hupsman's hand-writing are more likely to detect the imitation, than a person not acquainted with it; and when once it is admitted, that such persons do not believe it to be an imitation, but to be genuine, I am at a loss to conceive upon what circumstances, an acquaintance with the general hand-writing of Lord Berkeley can found itself, so as to prove it to be an imitation.—Evidence of such a description has been sometimes resorted to in the absence of positive testimony, but rarely, if ever, satisfactorily proceeded upon. Clerks in the Post-Office have been called upon, to prove the writing to be in a feigned hand, and that has been considered as going as far, if not farther, than the interests of justice would safely allow: and surely it is somewhat too hasty a proceeding for any

individual to conclude that, to be a feigned hand-writing, *and also by whom it was feigned*, against the express belief, upon oath, of several respectable persons, that it is the genuine hand-writing of the party to whom it is ascribed.

That the body of the entry of the marriage was written by Lord Berkeley was always admitted, and was a circumstance of which Sir James Mansfield was apprised as soon as the entries were found; and as to the words “*the Mark of Richard Barnes*” being of the hand-writing of Lord B., the Noble Marquis would, probably, have felt considerable distrust as to the accuracy of his opinion, had he, previously to giving his testimony, referred to the deposition of Lord B. (see Appendix, No. 4), the brother of his Marchioness, in which he distinctly swears, that those words were of the hand-writing of Aug. Thomas Hupsman, and actually written by Aug. T. Hupsman, in his, the Earl’s, presence.

Upon the whole, therefore, I submit to your Lordships, that the evidence received, if not conclusive, is most strongly in favour of the hand-writing being that of Mr. Hupsman; and its weight is not a little increased, by his declarations already referred to, that he had married Lord and Lady Berkeley: for, if he did, the probability certainly is, that he would have done that which is ascribed to him.

I cannot conclude my observations upon this point, my Lords, without lamenting that the Noble Marquis purposely absented himself from your Lordships' Committee in 1799, when Lord Berkeley was alive, and might have contradicted or explained circumstances and conversations stated by the Noble Marquis. Nay, my Lords, may I not be allowed to remark, that it is something extraordinary that testimony, to which so much importance is now supposed to attach, should not have been recorded in the suit to perpetuate

testimony; and that, with such opportunity of preserving it, those who considered themselves interested in its effect, should have exposed themselves to the loss of it, by rendering it dependent on the life of the Noble Marquis? My Lords, if the Noble Marquis did apprise Admiral Berkeley of such communication between him and Lord Berkeley, might I not, my Lords, expect to find it upon that record which would have guarded it against such risk? But, my Lords, I think, I may venture to state, that such communication is not to be traced in any judicial proceeding, and certainly, not in any private correspondence between Admiral Berkeley, myself, and his brother.

My Lords, the Noble Marquis has referred to a letter from Lord Berkeley, about the month of June, 1793, after the death of his daughter, whom, the Noble Marquis states, Lord Berkeley wished to have affianced to Admiral Berkeley's son.

My Lords, where is that letter? It is said to have been written to announce the death of a daughter, whose death is said to have put an end to the project of the Earl. But, my Lords, if you will refer to the date of the death of one daughter, and the birth of another, you will find that I was blessed with a second daughter, a few weeks after it had pleased the Almighty to take my other unto himself, so that the project, if ever conceived, and seriously entertained, was not necessarily abandoned, as supposed by the Noble Marquis.

My Lords, I shall now apply myself to the objection that there was no such person as Richard Barnes, as to which, my Lords, allow me to ask if it be possible, that if this entry, which was necessary to be proved, was fabricated, it could have escaped the attention of those who were guilty of the fabrication, that they should be called upon to give some account of the attesting witness ; and that their failure

in such respect would involve the transaction in, at least, a degree of suspicion. *But what account could they give of a man who never existed? And, if they foresaw, as I conceive they would have foreseen, if the entry was a forgery, that their not being able to give some account of the witness would subject the entry to suspicion, whence the necessity of exposing themselves to it? The name of a deceased person, who could not write, might have been substituted, and the suspicion, which is now supposed to attach to the entry, have been excluded. The fair question, therefore, my Lords, is, as I submit to your Lordships, whether it is more probable that a private marriage should have been attested by a person of the name of Richard Barnes, (probably recommended by the very circumstance of his being a stranger to the parish, and to the parties, and that such person should have been lost sight of, as soon as the purpose for which he was called in was answered), or that the parties*

fabricated the entry, and overlooked the objection likely to attach to it, in respect of their not being able to give any account of him as an attesting witness? an objection which, if the register be a fabrication, they would probably have foreseen, and against which they might have so easily provided.

My Lords, much of your Lordships' time has been engaged in an attempt to prove that Mr. Tudor, the other attesting witness, did not, in March, 1785, bear the name of Tudor. It does not appear to me, my Lords, to be material, to ascertain the motives which induced him to prefer the name of Tudor to that of his family-name of Cole. The fact of such preference, and that he bore the name of Tudor in 1786, is indisputable; and the only question is, whether he had, in any manner, assumed it in March, 1785? He swears that he had, and his mother swears that he had been so baptized; and, not-

withstanding the most diligent search, no document has been produced of a subsequent date signed by him as William Cole; and he having referred to Mr. Parker, a surgeon and apothecary, with whom he was on trial, the deposition of Mr. Parker (see Appendix, No. 7), in a suit in Chancery to perpetuate testimony, in which he confirmed this statement, was offered in evidence, but your Lordships were of opinion that it could not be received. This decision is the more to be lamented, as the testimony of Mr. Parker is unimpeachable, and would have done away the doubt which is supposed to attach to this part of the case; for, if Mr. Tudor did wish to be called by that name, it is certainly highly probable that he would have so signed himself upon the occasion alluded to.—Some of Mr. Parker's books were produced, to shew that he had made no entry in the name of Tudor; but, my Lords, it is to be observed, that none were found in the name of Cole: and, as to the circumstance

of his neighbours and school-fellows calling him Cole, they appear to have done so long after he had unquestionably assumed the name of Tudor. My Lords, it is somewhat extraordinary, if the register is a fabrication, and my brother in 1785 went by the name of Cole, that as it is signed Mary Cole, with reference to the name I bore in March, 1785, no one should have adverted to the circumstance that my brother, in 1785, also went by the name of Cole. I say, my Lords, if this be a fabrication, it does appear extraordinary, that on such an occasion the parties should have adopted the precaution necessary as to me, and have wholly overlooked it as to Mr. Tudor. Should it be observed, that it is by means of such oversight that frauds are detected, I admit that such is frequently the case; but I submit, that the fact alleged to have been overlooked ought to be proved before fraud is presumed.

My Lords, I submit, that if your Lord-

ships are, upon the evidence offered, though not legally admissible, morally satisfied that a marriage between me and Lord Berkeley did take place on the 30th of March, 1785, nothing but the most irresistible inferences ought to weaken such conclusion: but as your Lordships have been called upon to adopt a variety of inferences, furnished by demeanour and other circumstances, I shall now, with your Lordships' indulgent permission, apply myself in observation upon such demeanour and circumstances, in the hope of effacing from your minds an impression which they are supposed most properly to have produced.

- . My Lords, I beg to be understood, not as denying that inferences from conduct and declarations may be so strong, as to amount to moral proof; but I think I may venture to state, that inferences to be drawn from circumstances of conduct, confessedly intended to mislead, are rarely to be relied upon; and the credit due to de-

clarations must depend upon their tendency to affect the parties making them, and the circumstances under which they are made.

My Lords, if the question be as to a marriage which the husband was anxious to conceal, the parties appearing and acting as single, would be conformable to their purpose, and any inference drawn from such appearance would be erroneous ; when therefore the parties assert that they were married, and that their conduct was in order to conceal the marriage, the principal question, as it seems to me, is, as to the probability of such having been their purpose. If the marriage was equal, and in every respect unexceptionable, it were grossly improbable that the parties should have wished to conceal it ; but if, on the contrary, the marriage was unequal and derogatory, or likely to prove injurious to the interest of one of the parties, the concealment of it is at least as probable as the avowal of it, and it were certainly dan-

gerous to resort to inferences from conduct intended as the means of concealment.

My Lords, having submitted to your consideration what I conceive to be the positive testimony of the marriage having been celebrated between Lord Berkeley and myself, on the 30th of March, 1785, I will now apply myself to the alleged improbabilities of such marriage having taken place. My Lords, it is stated to be almost incredible, that a marriage so earnestly desired, should have been deferred for such a length of time as from the 12th of Dec. 1784, the last publication of the banns, to the 30th of March, 1785. Your Lordships will find, in Lord Berkeley's deposition, how his Lordship accounts for it; and, my Lords, most sincerely do I wish that the motive assigned by his Lordship may have been the only one; but, my Lords, I must in candour confess, that I have sometimes suspected that it might be otherwise accounted for; and that if I had been, by the

publication of banns, lulled into security, I might have fallen an additional victim to credulity. My Lords, the true question, as it seems to me, is, whether the registry of the banns be of the hand-writing of Mr. Hupsman? If your Lordships are satisfied that they are, you may safely proceed upon it; but if your Lordships are to speculate upon the more or less of impatience, on the part of Lord Berkeley, to make me his wife,—I am afraid that your Lordships will expose your judgment to considerable risk of miscarriage. Such conjectures may display the ingenuity of the Advocate, but are rarely to be referred to by the Judge. But, my Lords, what is the conclusion to be drawn from them? that the registry is a forgery?—My Lords, whatever may be the degree of improbability that arises out of the delay of the marriage, for so many weeks, I will venture with the most respectful confidence to assert, it is very far exceeded by the improbability of the registry's being a forgery.

To consider the register a forgery, with reference to this point, what are your Lordships required to suppose? that the parties contriving it overlooked the suspicion that was likely to attach to it, from the length of interval between the banns and the marriage; or, not overlooking it, were obliged to take those dates as the only dates, of which circumstances would allow. My Lords, as to overlooking the objection, I would ask, whether it is possible that an objection so obvious could have escaped attention? and, as to the necessity of submitting to it, is it credible, that being free to refer the marriage to any period prior to March, 1786, or even to the birth of my eldest son, in Dec. 1786, they could not find less exceptionable dates? But, my Lords, there is another circumstance, for which I think your Lordships would find it difficult to account, upon the supposition of the register's being forged; I mean, my Lords, the appearance of the signature on the registry of the banns. Your Lordships will

observe, that the writer was evidently about to sign "*Vicar*," instead of "*Curate*," when, recollecting himself after he had made the letter "*V*," he appears to have turned it into "*C*," or rather to have made the "*C*" on it. My Lords, the letter "*V*," however, remains so apparent, that it is impossible the writer should have expected it to escape attention : allow me, therefore, to ask, whether it is credible, that persons attempting a forgery, with so many printed forms, in blank, of registry of banns, as appear in the book, should have left a forged registry in the state in which your Lordships found this? Would they not naturally have destroyed this, and filled up another? My Lords, I am aware that much reliance has been had upon this appearance in the signature, to prove that it was a forgery. My Lords, it is not my purpose to follow the observations of the Learned Counsel against the claim of my eldest son ; permit me, however, gratefully to acknowledge the exertions and talents of those who sup-

ported it, and to refer your Lordships to the manner in which this appearance in the signature has been, to my mind, most conclusively accounted for—by ascribing the writing of the registry to a period subsequently to that when Mr. Hupsman became the second time Vicar of Berkeley, which was on the 9th of Feb. 1785, when, being about to sign himself what he then was, Vicar of the parish, he, recollecting that he was only Curate when he published the banns, made the alteration, as it now appears. My Lords, as to the probability of Mr. Hupsman having so deferred the writing of the registry, it is strong indeed: it was not necessary to prepare it at the time of the publication, and the purpose of concealment would be best answered by deferring it until the marriage was finally determined upon. My Lords, allow me to conclude these observations by remarking, that, unless your Lordships can conceive the grossest folly to be the necessary associate of the foulest purpose, it seems to

be impossible to regard the improbabilities stated, as the effect of a fabrication ; as they are too striking not to have been observed, and might from their nature have been easily avoided.

My Lords, I know not whether I ought even to refer to that part of the evidence on your minutes, by which it seems to have been intended to prove that it was, if not impossible, grossly improbable, that Lord Berkeley should have been at Berkeley on the 30th of March, 1785, he having, as it is alleged by Mrs. Hickes, accompanied her on her return from London to Berkeley on the 5d of April ; but, my Lords, as this evidence, supposing it to be correct, may have affected some of your Lordships' minds, allow me to remark, that it is not inconsistent with mine :—the marriage was on the 30th March, and I have uniformly stated that Lord Berkeley left me two or three days afterwards. My Lords, why he left me I have already ascribed to the

state of my health, upon which point I was certainly pressed, as I thought, to make a disclosure, which the justice of the case did not appear to me to require ; and which, from delicacy, nothing but the most unbounded confidence could warrant me in making, even to a medical friend. My Lords, I have to acknowledge, with gratitude, the motives of the interference of Noble Lords, which produced an explanation that then relieved me from this distressing situation ; but, my Lords, whilst I gratefully acknowledge the motives of such interference, most sincerely do I lament its consequences. 'The avowal of the nature of my illness might have wounded my delicacy, but could not, by any possible construction, have affected mine or my beloved husband's character, which I have too much reason to fear has suffered by dark and wicked insinuations.

My Lords, the same feelings of delicacy which induced me, when in your Lord-

ships' House, to congratulate myself that I was not then to make such disclosure, would induce me to withhold it now ; but, my Lords, I feel impelled, by a higher claim than even that of delicacy, to refer your Lordships to the letter of Dr. Jenner, which I have inserted in the Appendix, (No. 8,) as the best mode of repelling the calumny, under which my beloved Lord or myself may have suffered ; and, should it be asked why that explanation was not given by Dr. Jenner at your Lordships' bar, my answer is, that the information was rejected (I must presume upon good legal grounds) when tendered by Dr. Jenner, who could only speak to it as a communication of a fact made by me, nearly twenty years' ago, to him, as a medical man, then attending me for a complaint which rendered such communication necessary.

My Lords, it has been dwelt upon, as one of the many improbabilities that can-

not be accounted for, that neither I nor my mother should be able to say who was the medical man who attended me during that illness. My Lords, whatever may be the improbability with reference to my not being able to speak to this fact, I think your Lordships will not be surprised that my mother should not, when she was not with me at the time, she being at Gloucester, and I in London : and as to my not being able to speak to it, I have only to repeat my assertion, that I cannot ; and, to express my regret, that in the year 1811, I cannot speak to circumstances which occurred in 1785, and which I could not foresee were likely to become important to my future fame and my son's rights.

Allow me, my Lords, to pass from this painful topic without further observation, than, that I will hope, that those who may have been misled by my silence upon it, will do justice to my explanation, and receive it, not as the resentment of an in-

sulted woman, but as the appeal of a wounded spirit, to those feelings which are regarded as the best qualities in the character of man. My Lords, I shall not attempt to raise a question upon the testimony of Mrs. Hickes, by referring to that of any other witness. To vindicate my own character is my duty : but, in the discharge of it, I hope that I shall never lose sight of the respect due to the character of others. My Lords, it having been stated as grossly improbable, that Lord Berkeley should have left me so soon as two or three days after my marriage, I have only to repeat that such was the fact : and, having explained why he then left me, I should have been happy if it had been in my power to explain as satisfactorily, why he left me in 1786 for several months, when I was pregnant with my eldest son ; who, being the son of Lord Berkeley, not even the most slanderous of my enemies have ventured to doubt. My Lords, the truth is, that, notwithstanding the many good qualities

that Lord Berkeley possessed, he was not without peculiarities, and which, to those acquainted with him, fully account for many extraordinary appearances in his conduct. My Lords, it may be proper in this place to notice that part of Lord Berkeley's deposition, in which he states that "he did not live separate from me, " for any time after the month of March, " 1785 ; for that he, from that time, constantly cohabited with me." Your Lordships will observe, that, in a subsequent part of his deposition, he has described my being in lodgings; whence it is clear, that, by the phrase living separate, he did not mean locally separate; but his meaning was, as it is well known to some of his friends; and, as indeed his reason implies, that so long as we cohabited, or, in other words, so long as our intercourse as man and wife continued, we could not be considered as living separate. My Lords, there is another part of Lord Berkeley's deposition that demands attention: his

Lordship has described Bruton-street and Grosvenor-street as the places of my residence, from the month of March, 1785, to my going into Park-street, in June or July, 1786: in this statement his Lordship is incorrect: for, though I was in both those streets, I was also in Mount-street, and Gloucester, and Cranford, and St. George's-street, Hanover-square. I have already observed upon the faultiness of my own evidence upon this point, and therefore can more readily allow for that of Lord Berkeley's, and I have yet to learn, how concealment of the fact, could promote any irregular purpose.

I shall now apply myself to those circumstances of conduct which are supposed to be palpably inconsistent with a marriage having taken place in 1785. My Lords, as my conduct towards Mr. Fendall is supposed to be of that description, I must request your Lordships candidly to advert to the situation, in which, supposing

me to have been married to Lord Berkeley, I was unfortunately placed. It was his pleasure, and my engagement, that our marriage should be kept secret ; and, under the pressure of such obligation on my part, my demeanour was necessarily to be that of a single woman ; and as the addresses of Mr. Fendall, had I been a single woman, could not have been rejected without assigning to my family a cause ; I felt that I could not at once reject them, consistently with my appearance of being a single woman, without disclosing what I was in honour bound to conceal. I conducted myself, to the best of my judgment, as a virtuous young woman would have done ; and I can most truly state, that I was never in a room alone with Mr. Fendall, and that he never did forget himself so far as to attempt any liberty, still less to take liberties like those, which, from his evidence, might be inferred. He has, however, my Lords, limited the extent of even those liberties, by most solemnly declaring,

at your Lordships' bar, that nothing criminal ever passed between me and himself. My Lords, I feel myself almost humbled by adverting to this testimony; but I am obliged to do so, in order to place it in a right point of view, and to state what I know to be the fact.

Here I should have left Mr. Fendall, had it not, my Lords, been observed to me, that it might be concluded from his evidence, that I had, through Mr. Westfaling, applied for the letter I sent him when he was on the circuit, in 1785. As to the letter, my Lords, I am sorry that it is lost; and still more have I to lament, that I have destroyed that from him, to which it was an answer; as I have very little doubt but that the phrases stated, if any such were in mine, were suggested by some expressions in his, and of which I availed myself, fully confident that such letter would terminate our correspondence, as it confessedly did. My Lords, the first

communication that I had with Mr. Westfaling upon this subject, was verbal, and its substance will be found in the first of his letters : and that your Lordships may judge of my conduct upon this occasion, I have submitted, in Appendix, No. 9, the whole of the correspondence upon this point to your dispassionate consideration ; the result of which is, that I never did authorize any application for the letter written in 1785, but merely asked what Mr. Fendall had to say about my marriage, that I might convey the intelligence to the Lord Chancellor : and that the letter, for the return of which Mr. Westfaling did apply, was the letter of 1810, and which Mr. Westfaling had transmitted to Mr. Fendall, and which Mr. Westfaling returned to me in May, 1811.

I shall now, my Lords, address myself to another circumstance of my conduct, which is supposed to be wholly inconsistent with the idea of a marriage being

had between me and Lord Berkeley, on the 30th March, 1785—I mean, my Lords, my intercourse with my sister Mrs. Turner, whose situation I have stated to have been one reason assigned by Lord Berkeley to me, for requiring the concealment of our marriage. My Lords, I cannot, however, proceed in this part of the case, without expressing my sorrow, that the effect of the proceedings before your Lordships should have proved so fatal to the sincerest of penitents; to one who had, by her exemplary conduct for so many years past, effaced all recollection of her former errors; and was, by her benevolence, actually gracing the sphere in which a most truly respectable marriage had placed her. My Lords, I must regard the effect as inevitable, because I am confident, that, if your Lordships could have judicially prevented it, you would have availed yourselves of what was done by Noble Lords in 1799, when my beloved Lord was, by the amiable intervention of the most illus-

trious of your Lordships' House, relieved from the painful necessity of disclosing, what I have since been compelled most minutely to detail. But, my Lords, to return to the intercourse with Mrs. Turner, after March, 1785. I think it is scarcely necessary to remark to your Lordships, that such intercourse could not have been at once broken off, without creating some suspicion of my actual situation; and your Lordships will observe, from the evidence before you, that in a very few months after I returned to London I entirely lost sight of her, and from that time to this, we have never met. But, my Lords, it has been stated, that at my return from Gloucester the latter end of August, or the beginning of September, I went to my sister's house, which was in Charles-street, Berkeley-square: the witness, upon whose testimony this allegation is founded, is wholly unsupported by other evidence, and is most distinctly opposed by mine. I do not, however, mean to impute to him wil-

ful falsehood, because I verily believe that he is merely mistaken, and that he has ascribed to me what passed with my sister, Mrs. Farren. He states, that he told me he was come to take my luggage, and to shew me down to my sister's house (Evidence, page 335); and upon a Noble Lord's observing, " You did not tell Mary," " Cole that you was come to conduct her " to Mrs. Turner's," he answered, " I told " her I was to shew her down to her sister's house"—(Evidence page 338).—My Lords, that I had been frequently at my sister's house, before I went to Gloucester, is fully proved: may I not, then, observe, that the sending of the witness was not necessary, for the purpose of shewing me the way to my sister's? But such appears to have been the main purpose of his being sent; for, as to carrying my luggage, that might have been sent for at any time. But, my Lords, this evidence will apply to my sister Mrs. Farren's arrival in town, which was about the middle of

October, and who went to her sister's house in Charles-street: whereas I arrived in town in August or September, 1785: and as my sister, Mrs. Farren, had never been in London, the sending of the witness might be useful, to shew her down to Mrs. Turner's house.—There is another circumstance, my Lords, in the evidence of this witness, that deserves notice: he having stated that he left Gloucester the very beginning of 1785, I think I may conclude, that it was prior to my going down to Gloucester, in May, 1785; and as I had not then been there since March, 1784, the witness could not have seen me in Gloucester subsequently to that period; and yet he describes the person he saw in October, 1785, as dressed, as he had seen her at Gloucester. This might very correctly be said of my sister, Mrs. Farren; but certainly does not accord with the general tenour of the evidence as to me.

My Lords, having stated, and most truly,

that I discontinued my intercourse with my sister, Mrs. Turner, as soon after my return from Gloucester as I could, may I not ask your Lordships, whether it is not a circumstance of conduct confirmatory of my evidence, that I was then married to Lord Berkeley? for, living publicly with Lord Berkeley, I was either his wife or his mistress; and, if his mistress, what objection could I feel, as such, to associate with my sister, in respect of her being the mistress of another? But, my Lords, as the wife of Lord Berkeley, and not his mistress, I felt the degradation of my sister, (for it was such conduct, and not the circumstance of her servitude, that brought her into a state of degradation,) and I acted accordingly.

I shall now, my Lords, proceed to the circumstances which led to the second marriage. Your Lordships are in possession of Lord Berkeley's, my, and Mr. Tudor's evidence upon the subject; but, as I

could not produce the opinion of Mr. Bearcroft in writing, I fear that some of your Lordships entertained considerable doubt whether I had ever consulted him. It was my wish to be unknown to him, and to all persons that I might meet at his house; but, though I disguised myself for such purpose, Mrs. Bearcroft, some time afterwards, seeing me at Brighton, recognised me as the person who had called upon Mr. Bearcroft, in Duke-street, St. James's, as appears from Mrs. Bearcroft's letter, which will be found in Appendix, No. 10.

My Lords, if your Lordships are satisfied that I did consult with Mr. Bearcroft, prior to 1796, may I not venture to state, that it strengthens my claim to credit, as to the object of my consulting him—and as to the improbability of my brother's having consulted him, and not apprised him, that he was the surviving witness of the marriage of 1785—I submit to your Lordships, the occasion was not such as to

require such communication, or safely to allow of it.

My Lords, the then purpose was not to establish the marriage of 1785; for Lord Berkeley was decisively against that, lest it should involve Mr. Hupsman, and, perhaps himself, in penal, or, at least, unpleasant consequences: but, as his Lordship was willing to contract a second marriage, the only question was, how far the contracting of a second marriage would be, hereafter, conclusive against the first, if circumstances should allow of its being set up? Such, my Lords, was the point upon which I was anxious to be advised, and as to which Mr. Bearcroft did give me the advice referred to in my evidence, and which I acted upon, under the impression that I should best consult the welfare of my family in yielding to it. And, my Lords, even now when I look back upon my then situation, I feel that I had no alternative. I admit, however, my Lords,

that the second marriage raised, as I apprehended it would, a presumption against a former marriage in 1785 ; but, my Lords, it raised only a presumption, and, as such, might be repelled by other circumstances; and I think I may say, that it was repelled by the circumstances adduced before your Lordships' Committee in 1799, as I, otherwise, should not now have had to acknowledge the subsequent friendship of the most illustrious of your House, and that, of the Noble and Learned Lord Thurlow, who possessed as powerful, comprehensive, and sagacious a mind, as ever applied itself to the judicial or moral investigation of truth.

It might be, my Lords, expected that I should here refer to the consultation I had with Lord Chief Justice Mansfield; . but, my Lords, as his Lordship cannot distinctly ascertain when that consultation was, I can only say, that I most firmly believe it was prior to my marriage in 1796,

because I cannot conceive why I should have consulted his Lordship afterwards (unless subsequently to consultations with the Learned Judge by Lord Berkeley). I beg, however, to remark, that if I did in my first consultation manifest that degree of agitation, and exclaim, "It is already done," as described by that Learned Judge, upon his starting something which gave me to apprehend, that I had injured my eldest son, by contracting the second marriage, that it could only be with reference to my consciousness of a former.

My Lords, having stated the circumstances under which the second marriage was contracted, I shall now call your Lordships' attention to the registry of my son, who was born shortly afterwards.

My Lords, I have stated that I was not certain, but rather think I did know, that he was registered as Lord Dursley ; but that, if I had, I should not have objected

to it; for, my Lords, as the despair of establishing my first marriage had induced me to contract the second, the same feelings would have induced me to submit to all the consequences which might attach to such second marriage. But, my Lords, it appears that such son was not only registered as Lord Dursley, but was so described by Lord Berkeley, in the entry which he himself prepared for registration. My Lords, may I presume to observe, that it is much to be lamented that inferences drawn from Lord Berkeley's conduct, are not legally subject to the explanation which Lord Berkeley has given of such conduct? If they had, my Lords, I think they would have been at least much weakened by his Lordship's declarations and depositions. The fact, however, my Lords, of my younger son having been registered as Lord Dursley, was before the Committee in 1799, and certainly was not regarded as entitled to that degree of weight, which I fear it has had in the judgment of some of

your Lordships upon the late proceedings.

My Lords, it is due to a Learned and Noble Lord, and still more strongly due to myself, to advert in this place to what appears to have so seriously affected his Lordship's mind, as to have induced him to suspect that it was at one period my purpose to have suppressed the registry in which my younger son is described Lord Dursley, and to have substituted one in which such description is omitted.

Lord Berkeley having determined to deliver his pedigree, Sir Isaac Heard, Garter King at Arms, appears to have been applied to, and certainly prior to the 10th April, 1799, as on that day I appear to have written the following note to Sir I. Heard :—

“ Lady Berkeley presents her compliments
 “ to Sir I. Heard, and encloses him all the copies of
 “ registers to be found at Cranford. Lady Berkeley

“ is most anxious to have the pedigree finished, as she
 “ hopes, in the course of next week, to have all the
 “ registers belonging to the family. Lady Berkeley
 “ hopes Sir I. Heard is recovered, and that she shall
 “ have the pleasure of seeing him one day this week.”

“ *Spring-Gardens, April 10th.*”

From this note it is evident that there had been a prior communication with Sir I. Heard; and from my urging the finishing of the pedigree, I think it is clear that I had given Sir I. Heard some information which he was to pursue, and which I wished him to pursue with the least possible delay. What that information was, does not appear, except as it may be collected from the following note of the 17th of April, 1799:—

“ Lady Berkeley presents her compliments
 “ to Sir I. Heard, and if his health will permit, she
 “ should be very happy to see him to-morrow morning,
 “ at 12 o'clock; but lest Sir I. Heard should not be
 “ able to leave his house, Lady Berkeley begs to say
 “ she made a mistake, in the parish her younger son
 “ was christened in, it being Berkeley instead of
 “ St. Martin's in the Fields.”

“ *Spring-Gardens, April 17th.*”

From this, it appears to me, to be quite clear, that I had at least, previously to the 17th April, represented to Sir I. Heard, that the younger son had been christened in St. Martin's in the Fields ; and if so, it seems to me as clear, that when I made such representation, I did not intend to suppress the registry of his baptism in that parish, but referred Sir I. Heard to it, with a view to his taking a copy of it. It, however, afterwards occurring to me that my youngest son had been *christened* at Berkeley, I apprised Sir I. Heard of this circumstance ; and I can truly state that I was not apprised of the circumstances of Mr. Carrington's having sent up such register of Berkeley, until informed by Sir I. Heard, that there were two registers of my younger son's baptism ; upon which, I believe, I remarked that the Berkeley register was the right one ; and I have a faint recollection of having said to Sir I. Heard, that I was sorry that I had referred him to St. Martin's in the Fields, as it might

create confusion. But I am confident that Sir I. Heard, being in possession of all the circumstances of the first and second marriage, I reckoned upon his acting upon them, in such manner as his official duty to your Lordships' Committee might require, and which I cannot but think should have suggested to him the propriety of counteracting that, which I believe to be the unintentional inaccuracy of Mr. Carrington and Mr. Lewis, in their evidence in 1799, upon the extract from the register of Berkeley.

My Lords, I trust that this explanation will satisfy your Lordships, that it never was my purpose to suppress any circumstance, which might be material to a correct judgment on my younger son's claim, and which, even now, appears to me to be, in substance, as effectually secured by the description of son of the Earl and Countess of Berkeley, as by the description of the Right Hon. Thomas Moreton Fitzhardinge,

Lord Dursley, son of the Earl and Countess of Berkeley ; for neither of my other then born sons being described as son of the Earl and Countess of Berkeley, but as son of the Earl of Berkeley and Mary Cole, the necessary legal consequence would have been, that my first-born son, after I was described as Countess of Berkeley, would be, *primâ facie*, Lord Dursley ; and as to the circumstance of Lord Berkeley having himself prepared the registry, I certainly was not aware of it. My Lords, as I regard the suppression of a truth, which in justice I was bound to reveal, as removed only one degree from the guilt of asserting a falsehood, I have drawn your Lordships' attention to this point, and shall now proceed to another of the same description. My Lords, I am informed that the Learned Counsel for the opponent more than insinuated, that the proceedings in the suit to perpetuate testimony were collusive. My Lords, I know not upon what evidence the Learned Counsel pro-

ceeded, except that the answer of Admiral Berkeley was taken, without oath ; the reason for this, I know not ; but I think, my Lords, if the evidence which the gallant Admiral had to communicate, had been thought very material to the justice of the case, your Lordships would have been requested not to proceed without it ; and I can most truly assure your Lordships, that in Nov. 1799, I requested the worthy Admiral to preserve, for my son Moreton, any intelligence that he might have to negative my first marriage. This I did, my Lords, not from any doubts, as to the fact of the marriage ceremony having been performed, for of that I was certain ; but as I knew that there are forms prescribed, I considered my younger son legally entitled to any advantage that he might derive from any defect in the observance of them. My Lords, it may be deserving of attention, that the interests of my younger sons were committed to two persons, one of whom, as a near relation of Lord Berkeley,

was interested in preserving the honour of the family, and both of whom, as Noble Members of your Lordships' House, were interested in preserving the honour of the Peerage.

My Lords, with respect to the declarations alleged to have been made by Lord Berkeley, from which it is to be concluded, that he was not married prior to 1796, I shall only repeat, that if they were made, they rendered it less probable that his Lordship should afterwards have made the most solemn declarations to the contrary. But, my Lords, supposing them to have been made, their effect seems to me to be merely such as was consequential on his purpose, not to avow the marriage of 1785; and I am confident, that it will not escape your Lordships' attention, that they were not made in my presence. My Lords, though I might leave the evidence of Mr. Chapeau and Mrs. Lumley, upon this point, without observation, it

may be expected, that I should notice that of a Noble Marquis, as it is supposed to have had considerable weight with your Lordships.

My Lords, I have already drawn your attention to the project which the Noble Marquis of Buckingham states Lord Berkeley to have conceived, of a marriage between his daughter and Admiral Berkeley's son, as a means of uniting the Castle of Berkeley and the Earldom; but which project is alleged to have been given up, in consequence of the death of such daughter. My Lords, that daughter appears, by the register of burials in the parish of Cranford, to have been buried on the 2d of June, 1793, and my daughter, Henrietta, appears, from the register of births in the parish of St. Martin in the Fields, to have been born on the 23d of June, 1793; so that, as I have already observed, if such project was ever seriously entertained, it was not necessarily abandoned, or

might have been revived. But my Lords, though such is alleged to have been a favourite object with Lord Berkeley, yet your Lordships have no trace of it subsequently to 1793. My Lords, from the evidence of the Noble Marquis, your Lordships might be led to conclude, that his Lordship had heard something injurious to my character. I cannot but lament, that the Noble Marquis did not condescend to state what he had heard, and from whom. From Admiral Berkeley, and the amiable Lady Emily, I will venture to state, that he had heard nothing but praise and admiration of my conduct, even years before they were informed by me of the relation in which I stood to them. That such were the feelings of Admiral Berkeley towards me, your Lordships will, I think, conclude from the letters already stated; and that those of Lady Emily were congenial, I conclude from the many instances of kindness which I had experienced from her, even prior to 1796. My Lords, I hope

your Lordships will refer my observations upon this point to a better principle than vanity;—from my earliest infancy, I had been taught to consider inferiority of birth as an accident, and superiority of merit as the proudest of distinctions; and I can most truly assure your Lordships, that whatever value I may attach to the rank of Countess of Berkeley, it is infinitely short of that which I attach to the virtuous and upright conduct by which Mary Cole attained it.

My Lords, as to that part of the evidence of Admiral Prescott, in which he states that Lord Berkeley, in a conversation with him, threatened to put me away; and which being communicated to me by the Admiral, I answered, “He dare not;” I have only to shew, that such answer most strongly implies, that there was something in my connexion with Lord Berkeley, that could not belong to a kept mistress, liable to be discarded at pleasure;

and as to the ascendancy which I am supposed to have had over him, your Lordships may judge how I acquired it, when you refer to the manner in which I availed myself of it. As a wife, I consulted his interest: had I been his mistress, I should have consulted my own.

My Lords, with respect to the declarations ascribed to me, from which your Lordships were called upon to conclude that I was not married prior to 1796, I can most truly assert, that they are wholly unfounded. I must, however, trouble your Lordships with a few observations upon them. Your Lordships will recollect the evidence of Mrs. Price, and the confidence with which she spoke to certain facts—as to almost every one of which she was contradicted by other witnesses—the effect of which was, that the Solicitor-General, the Counsel for the opponent of the claim, felt himself bound in candour to request your Lordships to ex-

clude her testimony from your consideration; a request with which, I must hope, your Lordships were able to comply, notwithstanding the strong impression that such evidence was calculated to produce at the time you heard it.

My Lords, as to the evidence of Mr. Ferryman, he states, that pointing to my children, I observed, that but for those ties I would not live with Lord Berkeley upon the terms I did, or words to that effect. Your Lordships may recollect, that I was asked by the Solicitor-General, upon the cross-examination, page 90, whether I had ever so expressed myself—and my answer was, “Not unless I was alluding to the concealment of my marriage;” upon which allow me to remark, that it appears the Solicitor-General was in possession of this part of Mr. Ferryman’s evidence before he entered upon the opponent’s case; but your Lordships will find, that he did not call Mr. Ferryman until after he had closed

the evidence, and, when he did call him, your Lordships will recollect, that it was professedly to clear up, as he hoped it was, a mistake in the evidence given on the part of the claimant, alluding to Mrs. Bell, page 774.

My Lords, though I submit that Mr. Ferryman's not being called in the regular stage of the proceedings, to prove this alleged declaration, strongly implies that, in the opinion of the Learned Counsel, the answer which I had given was conclusive, yet, my Lords, allow me even now to ask your Lordships, whether the declaration, supposing it to have been made, and which I deny, does not, most strongly, imply a concealed marriage between me and Lord Berkeley?

My Lords, I will not trouble your Lordships with further observations upon Mr. Ferryman's evidence, as your Lordships cannot have forgotten that it was opposed,

in its leading points, by that of Mr. Bell and Mr. Paytherus.

My Lords, I shall now address myself to the evidence of Mr. Chapeau, which, I can assure you, surprised me as much as the Rev. Witness thought it would surprise your Lordships. My Lords, I have to acknowledge the manner in which the Rev. Gentleman describes me as a most artless woman, and having many amiable qualities; but I have to lament that his illustration, by reference to my conduct, is so different from what might be expected from his eulogium on my character.

The Rev. Witness having stated himself to have been, for many years, the intimate friend of Lord Berkeley, *a canvassing letter* from my eldest son was produced, to shew that the Rev. Witness was entitled to such description. My Lords, your Lordships, I think, cannot have been influenced in

your judgment by that species of evidence ; and I am confident that you are too well acquainted with the qualities, which constitute the basis of an honourable friendship, to confound them with those which may lead to intimacy. Social or convivial talents may render an individual a welcome guest at your table, or a desirable companion in the sports of the field : but friendship requires something more ; it requires affections that can share the sorrows which their exertions cannot avert, and which regard the hour of affliction as the trial of their sincerity. My Lords, I may be mistaken ; but I cannot, after the most careful perusal of the evidence of the Rev. Witness, trace any thing approximating to that congeniality of sentiment, still less any thing like that conduct, which such sentiments would dictate. That Lord Berkeley derived pleasure from Mr. Chaudeau's society in the field, I conclude from the frequency of his accompanying him ; but that Lord Berkeley ever extended his

confidence to Mr. Chapeau as a friend I cannot believe, especially when I find that he withheld from him, till 1798, the circumstance of my being Countess of Berkeley, a circumstance which he had communicated to so many other persons in 1797.

My Lords, I would not have troubled you with a single observation upon this point, but have left the Rev. Witness in full enjoyment of the reflection, that he was once the friend of Lord Berkeley, and to have justified to his own feelings the conduct which he had pursued towards him; but, my Lords, I am compelled to advert to it, lest the sanctity of the character of a friend, should have conferred something of value on the testimony of a merely familiar acquaintance.

As to the period, my Lords, when the Rev. Witness discontinued his visits, I am certain that it was some months after the investigation; and as to the cause of his

so doing, I have always ascribed it to an offence taken at some conduct of myself and Captain Cracraft, who was an almost constant inmate in the house. The Rev. Witness has, however, ascribed his withdrawing to “the investigation’s affording him a good opportunity to cut them entirely;” though to Admiral Prescott he appears to have assigned a different, and certainly a more honourable, motive, “that he would not sit at a table, when he might become an evidence against the owner of it.”—My Lord, I have already stated, that the Rev. Witness did, long subsequently to that period, continue his intercourse with Lord Berkeley; and, if he will refresh his memory, he will find that he continued to reside at Harlington until 1800, or 1801; and as such residence was with a view to associate with Lord Berkeley, he will probably feel, that his continuance of the intercourse was throughout the period of his residence.

My Lords, the Rev. Gentleman ascribes to me the voluntary communication to him, of the manner in which I became connected with Lord Berkeley, in a narrative certainly calculated to interest the feelings, but, fortunately for the cause of truth and justice, combining circumstances, the concurrence of which cannot be applied to any period of my life, and some of which admit of direct contradiction—I particularly allude to the description, which, he says, I gave of the wretched state in which I found my sister, Mrs. Farren, and her children, diseased and dirty, “and one Mrs. Sheffield, an old servant of the family, who came, upon her necessitous situation, to assist them.” My Lords, I certainly did request that Dorcas Sanager should be called to prove, that Mrs. Sheffield did not go into Mrs. Farren’s service, or was known to any part of the family, till February or March, 1787, some time after the birth of my eldest son in 1786,

and I can most confidently refer your Lordships to her recollection of the fact ; and that she was not called as a witness upon this point, I am satisfied was the effect of mere inadvertency.

My Lords, after your Lordships had heard the evidence of Mr. and Mrs. Bell, in contradiction to statements made by Mr. Chapeau, from which your Lordships might have inferred, that a respectable merchant, was a fraudulent contractor for saddles ; and an accomplished lady, a mere picture-cleaner, I certainly did not expect that the evidence of Mr. Chapeau could, in any the least degree, have influenced your Lordships' judgment. I understand, however, that a Noble and Learned Lord did consider part of it entitled to your Lordships' attention ; and that the alleged fact of my having told Mr. Chapeau that Lord Berkeley paid one hundred guineas for me, was con-

sidered by the Noble and Learned Lord as materially strengthened by the evidence of a Noble Marquis. My Lords, as to the evidence of the Noble Marquis, I submit that it is merely that of a faint recollection of a conversation, the probability of which having occurred, I confidently refer to your Lordships' decision. But, my Lords, it may be said, that though the narrative is not entitled to credit, the manner in which I addressed my child is particularly so:—
 “ Now, you little dog, though I am not
 “ your father's wife, I will make you
 “ know that I am your mother.” My
 Lords, this is represented by the Rev.
 Witness as having occurred in Spring-Gar-
 dens, not long after the death of the late
 Countess of Berkeley, which happened in
 1792, so that, at the period it is alleged to
 have happened, my eldest son could not
 be more than six years of age. The witness,
 however, describes him as a good big boy,
 and that he had been shut up because he

had been very insolent to his mother. My Lords, I can only repeat, that I never did so express myself, and I think I may safely refer to your Lordships' experience to decide, as to the probability of my so addressing a child of such tender years, or of his having conducted himself in a manner which could possibly require it. My Lords, I shall here leave the evidence of Mr. Chapeau, confident, that whatever protection your Lordships may think proper to throw around him, it will be rather in respect of his age and infirmities than of his credit; and, equally assured that the indulgence that your Lordships may deal out to infirmity, will not be withheld from truth; I call upon your Lordships to look through the history of my life, for such I may consider the evidence before you, and to point out the circumstance, which, in your Lordships' judgment, affects my moral character: and, had the same course of inquiry been pursued, as to the history of those witnesses who are op-

posed to my testimony, I will venture to affirm, that this address to your Lordships would have been rendered unnecessary. But, my Lords, though I cannot but wish such had been the course of inquiry, I am bound to conclude that the occasion did not allow of it, and must submit. As it may be useful to ascertain what were mine and Lord B.'s feelings in 1797, with reference to my conduct, I beg to refer to letters in Appendix, No. 11.

My Lords, I shall now respectfully call your Lordships' attention to the circumstances which preceded and followed the discovery of the registry. A Noble and Learned Lord appears to have thought that the idea of representing the registry as having been destroyed, never occurred until at, or after the consultation which Lord Berkeley had with Sir J. Mansfield ; and he founds his suspicions upon my not having made such representation to Sir J. Mansfield, and upon Mr. Carrington's not having been

informed of the circumstance until such consultation took place. My Lords, as to the latter fact, the Noble and Learned Lord is correct ; but as I certainly did understand that the registry was destroyed, and did state such as the fact to Mr. Bearcroft, I have no doubt but that I did also to the Learned Chief Justice when I consulted him ; and, though his Lordship does not recollect that there was any thing said as to the registry having existed, but having been destroyed, yet the impression which his Lordship's mind did receive, is by no means inconsistent with it. His Lordship says, " I believe the representation made " was, that there was no registry existing ;" page 146. My Lords, it is very far from my intention to rely on verbal criticism, but I think I may submit to your Lordships, that the fair import of the phrase, " no registry existing," if it does not imply that a registry had existed, by no means excludes such construction ; and I should hope that I might fairly call upon your

Lordships to adopt that construction that is most favourable to my evidence, upon oath, unless it be otherwise impeached. Your Lordships are in possession of the Learned Chief Justice's letter to Mr. Carrington, with the post-mark, 13th of Feb. Lord Berkeley and I were then at Berkeley-Castle. On the 17th of Feb. we left it, according to my evidence, and which is much strengthened by the circumstance of Mr. Carrington having discharged his lodgings on the 16th of Feb. as was his practice, previously to his leaving Berkeley; and on the 18th we arrived at Cranford: on the 21st, Mr. Boodle attended Lord Berkeley on the subject; and the following entries from Mr. Boodle's bill, for business done as Solicitor for Lord Berkeley, will shew the course of proceedings from that period.

1799, } Attending with Mr. Carrington, when he
 Feb. 21. } informed me of the death of Mr. Hupsman,
 and of Lord Berkeley's former marriage,
 and of Mr. Mansfield's opinion on a case
 stated by him.

Feb. 21. Attending your Lordship on the same subject, and heard from you all the leading circumstances of the marriage.

25. Attendance with your Lordship and Mr. Tudor, and took down his statement of the circumstances of the marriage.

Attending again in the evening, and with your Lordship, on Mr. Mansfield, to consult him on the case ; and afterwards with your Lordship and Lady Berkeley, and Mr. Tudor.

27. Attendance with your Lordship, on the subject of your former marriage.

March 5. Attendance with your Lordship, on the subject of sending some one with Mr. Carrington, to search the register at Berkeley ; and afterwards with your Lordship and Lady Berkeley, when it was determined that one of my clerks should accompany him.

6. My clerk, Mr. Scriven's, journey to Berkeley-Castle, with Mr. Carrington, to search the parish register of marriage, when the registry of your former marriage was discovered, under particular circumstances of concealment—(*Out three days*).

7. Attending your Lordship, with Mr. Sidebottom's opinion, as to Mr. Tudor's making an affidavit of his being present at the for-

March 8. Attending your Lordship and Lady Berkeley, on Mr. Scriven's returning with Mr. Carrington, from Berkeley, having discovered the entry of the registration.

9. Attending a consultation, at Mr. Mansfield's, and again heard Mr. Carrington's account of the discovery of the registration; and consulted with Mr. Mansfield, as to the future custody of the parish register.

Revising and making considerable alteration in the draft of your will, in consequence of the discovery of the registration.

Attending your Lordship again, and was desired by Lady Berkeley, to procure Mr. Scriven's statement of the circumstances of finding the registration of the marriage.

12. Attending your Lordship on your will, and with Lady Berkeley, concerning the registration of the baptism of some of the children.

My Lords, in drawing your Lordships' attention to these entries, I was anxious not only to supply the defect in your minutes, as to the date of Lord Berkeley's consultation with Sir James Mansfield, but also to shew, that the mind of Lord Berke-

ley was so seriously affected by the discovery of the register, as to induce him to alter his will in consequence of it; and I should hope, that such dates would effectually exclude the suspicion, that the registry produced was not in the book on the 16th April, 1799, when Mr. Pitt first searched for it, but was inserted between that period and the 17th May, 1799, when he made the second search, and found it.

My Lords, I shall now proceed to the register itself. A Noble and Learned Lord appears to have put it as a question to your Lordships, whether the concealment of the register was a concealment of the register which took place at the time of the marriage, or was it not? If it was a concealment which did not take place at the time of the marriage, what becomes of all the purpose of secrecy; because no man living could take that book in his hand, and look at it, without, in all human probability, seeing the entry? If, on the other

hand, continues the Noble Lord, it was concealed at the time of the marriage, is it a very probable thing, that, because parties wished there should be a marriage, and wished that such marriage should be kept secret from the world, they should not procure to themselves the means of knowing how that marriage might be manifested?—My Lords, the Noble and Learned Lord's reasoning would very forcibly apply to the conduct of a person of experience; but, I think, I may venture to submit to your Lordships, that you must strain the principle of such reasoning very much indeed, in order to apply it to the conduct of a girl of seventeen, who may be reasonably supposed to have thought that she could, upon such a point, trust to the honour of the man to whom she had intrusted her happiness. That the marriage was to be kept a secret, I knew, and had consented; but the manner in which the register was to be dealt with for such purpose, was not to me an object of atten-

tion ; and it appears, from Lord Berkeley's depositions, to have been left to Mr. Hupsman. And, my Lords, as to the observation that it does not appear when Lord Berkeley first knew of the concealment, I admit, my Lords, that there is no evidence of such circumstance on your minutes ; but I think your Lordships must infer from Lord Berkeley's speech in 1799 (see page 25), and his depositions (see Appendix, No. 4), that he concluded the registry to have been concealed as soon as Mr. Hupsman had an opportunity of so doing ; and as to the observation, that this was a point which was suggested as requiring explanation in 1801, I have only to assure your Lordships, that I have no recollection of the circumstance ; and that if it had occurred to me, or Lord Berkeley, as material to your Lordships' judgment, the fullest explanation of which it allowed should have been submitted to your Lordships' attention. But, my Lords, it has been observed, that " it is quite im-

“ possible that the register could have
 “ been written upon the 30th March,
 “ 1785, and pasted down upon the back
 “ of the book before 1790 ;” “ for,” says
 a Noble and Learned Lord, “ it appears
 “ that when John Clark, the parish-clerk,
 “ had come to the close of that leaf, which
 “ is the regular printed ruled leaf, not
 “ being, I suppose, provided with another
 “ book according to the Act of Parlia-
 “ ment, he had himself ruled either the
 “ whole or a part of it in the year 1790.
 “ Now if he ruled only a part of it in 1790,
 “ because the bottom part was cut off, it
 “ is impossible but that he must have per-
 “ ceived that the bottom part was cut
 “ off. On the other hand, if he ruled only
 “ part of it, and the bottom of the leaf
 “ was not cut off, for the same reason it
 “ could not have been pasted down in
 “ 1785. But if your Lordships will take
 “ the trouble to look at that double line
 “ which closes the second compartment,
 “ if I may so call it, of that leaf of the re-

“ gister, your Lordships will find that the
 “ paper is so cut through, with respect to
 “ the different parts of the line, that it is
 “ quite impossible that that double line
 “ could have been put there after the rest
 “ of the paper was cut off: the conse-
 “ quence of that is, that if the parish-clerk
 “ did not rule that part of the leaf till
 “ 1790, the other part of the leaf could
 “ not have been cut off, because the bottom
 “ line of the second compartment could
 “ not have been put on that leaf unless the
 “ bottom part had formed a part of it.”—
 My Lords, the reasoning of the Noble and
 Learned Lord is supposed to have pre-
 sented an insurmountable objection to the
 registry’s having been written on the 30th
 of March, 1785, and pasted down upon
 the back of the book, prior to 1790. The
 Noble and Learned Lord observes, that
 the witness Clark “ must have ruled either
 “ the whole or a part of the leaf, in 1790.”
 If your Lordships will refer to Clark’s
 evidence, you will find, that though in the

latter part of it he says, he recollects having ruled them, in the first part of it being asked who ruled them, his answer is, “ I think I ruled them.”—Here is evidence indeed of his belief, but certainly not such as would have excluded the contrary ; and being afterwards asked whether that was done (meaning ruled) with pencil throughout the page, from top to bottom, before any part of it was covered with ink, he answered, “ That, I really cannot say ; where it began I know, where it ended I know not.” As to the whole being ruled by him, he says, “ I do not recollect whether the whole of the leaf was ruled, or was not.”—May I not, my Lords, upon this evidence, observe that the witness does not appear, after an interval of twenty years, to recollect the state in which he found the leaf in 1790? and may I not ask, whether it is not probable that, if he found it entire, he would have ruled the whole of it? But if it be probable that he would have ruled the whole of it, if he had found it entire,

may not your Lordships, if you find that the whole is not ruled, infer, that the part which is not ruled, was not ruled, because it was, at the time, separated from that which is ruled? Applying this presumption to the state of the two parts of the leaf, I mean that part on which Cowley's registry is entered, and that on which my registry is entered, and which two parts did, at some period, constitute the entire leaf—applying, I say, the above presumption to the actual state of these two parts of the leaf, your Lordships will observe, that, on that part on which Cowley's registry appears, there are marginal lines, which, if drawn when the leaf was entire, would have run through that part of the leaf on the back of which my registry appears ; but if your Lordships refer to that part of the leaf on the back of which my registry is, no marginal lines are to be found : whence, I submit to your Lordships, it is fairly to be inferred, that such part of the leaf on which such marginal lines do not

appear, was separated from the other part at the time the marginal lines were drawn on that other part ; and if the intersected double lines must have been, or, at least, most probably were, for the reasons stated by a Noble and Learned Lord, drawn before the bottom was cut off, such intersected double lines were on the part of the leaf, on which Cowley's registry appears, at the time Clark ruled the other lines. My Lords, I have already stated, that I knew nothing of the manner in which the registry was to be concealed ; and can assure your Lordships, that I am fully sensible of the danger of trusting to conjecture, or to inferences to be drawn from the apparent state of any document which may have been made to assume such appearances as particular views might require. I repeat, my Lords, that I am too sensible of the danger of that species of evidence, not to feel the most unfeigned distrust of myself, when resorting to it ; but, my Lords, it will perhaps weigh as a circumstance of

apology with your Lordships, that I resort to it, not to destroy conclusions to be drawn from clear and positive testimony, but to repel inferences and conjectures that are supposed to be fatal to the honour and veracity of myself and others, most nearly and affectionately connected with me. My Lords, I mean not to object to any Noble Lord's resorting to inferences ; but I most respectfully submit to your Lordships, that inferences which are to weigh in judgment, ought to be necessary, or rather so irresistible, as not to allow of the contrary being supposable: and that if any set, or combination of circumstances, can be stated, which would obviate the inference drawn ; such inference ought not to be adopted, even in the absence of other evidence to the contrary ; still less ought it to prevail against clear and positive testimony.

My Lords, in courts of justice, Judges, the most distinguished for sagacity, have

been often misled by circumstantial evidence; and the most confident have paused, and often declined to act upon it. The question before your Lordships does not, indeed, involve the life of an individual; but, my Lords, it involves that to which life itself is a secondary consideration—the honour of a most ancient and noble family, who have for centuries constituted a part of your august Assembly.

My Lords, with these preliminary observations, allow me now to submit to your Lordships, what may have been the course of proceeding which has led to the present appearance of the leaf, supposing such to have been its state when the registry was first discovered. And, my Lords, if such view of the subject should appear to your Lordships, even as probable as any other, I think your Lordships will prefer it, as it will relieve your Lordships from the painful necessity of imputing guilt to those, to

whom guilt was never before thought to be imputable.

My Lords, to proceed;—that Mr. Hupsman, being about to make the registry on side A of the leaf, the side on which Cowley's registry now appears, reversed the book, and ruled the pencil-lines which are now on the back of the registry of my marriage, but which are not equidistant with those on the other part of the leaf, and terminated the compartment by the double line in question. That when he had covered such double line with ink, it occurring to him that the writing would be better concealed by placing it downwards towards the cover of the book, he changed his purpose, and made the registry on side B of the leaf. (See *Fac Simile* annexed.)

Side A. *In* 1790.

Cowley's Register.

Blank Register.

Compartment, supposed to have been first ruled by Mr. Hupsman for Lord and Lady B.'s registry of marriage, and for which another piece of paper was substituted, when the registry was separated from the upper part of the leaf.

N ^o 74 Frederick Augustus Earl of Berkeley of this Parish	Bachelor	and Mary Cole of the same Spinster	were married	in this Church by Banns	this thirtieth	day of March in the Year One Thousand seven hundred	and Eighty five—by me Aug ^s . Tho ^s . Lupton, Vicar	} this Marriage was solemnized between us	} Mary Cole	} W. Tudor	} In the Presence of	} The Mark of Richard Barns.
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That Mr. Hupsman, in separating this part of the leaf, accidentally cut through the under line of the double line, or cut it through purposely, the better to evidence that the registry had been part of the leaf, if ever it should be necessary to refer to it: that Clark found the bottom of the leaf cut off, and the double lines, the lower of which was intersected, as it appears, drew his marginal lines to and from the termination of such double lines; and that Mr. Hupsman, afterwards wishing to render the proof of the marriage more difficult, affixed the substituted slip to the upper part of the leaf, and so as to cover the double lines, with which the registry would tally; and also defaced the edge of the registry, in the manner in which it now appears, if such was its state when discovered.

My Lords, in this view of the case, I have assumed that the bottom of the leaf was cut off, but I have stated why it is

most probable that it was cut off; and as to the double lines being on the upper part of the leaf, after the bottom part was cut off, that is one of the points relied upon, in the reasoning of the Noble and Learned Lord, that those lines must have been on the leaf before the bottom part of it was separated from the upper part of it; and as to the other points, they are, as they seem to me, so little important, that I have stated them only to shew what may have been the fact, without any anxiety as to what the fact was. But, my Lords, I cannot call upon your Lordships, after the observations which I have submitted to you upon this species of evidence, to give more of effect to it, than may be necessary to repel conclusions which are supposed to result from a different application of it.

I, my Lords, found my claim to credit with your Lordships upon my unimpeached, and, allow me to add, my unimpeachable character; upon the concur-

rent affirmative testimony of my beloved Lord, whose testimony was offered in atonement for wrong, and not as the foundation for benefit; upon the disinterested testimony of a brother, to whose veracity and honour two most respectable witnesses have deposed; and to the unsolicited, and to me for years unknown, declarations of the minister, who could not be mistaken as to the fact; and whose duty it was to record it. Upon the concurrence of this testimony, I found my claim to your Lordships' credit; and powerful, indeed, ought to be the evidence that can bear up against its moral effect.

. My Lords, I should here have closed my Address, but I feel that I ought to bring your attention down to that period, when it pleased the Almighty, by taking unto himself my beloved Lord, to throw upon me the duty of repressing the sorrows of the widow, in order to discharge the duties of a surviving parent: and can it be

supposed, nay, is it possible, that I could retire from the chamber of death, and, throwing off all those impressions which the awfulness of the scene had produced, have made up my mind to appear in your Lordships' House, to incur the guilt of deliberate perjury? Very different, my Lords, were the sentiments with which I appeared amongst you;—but, my Lords, of that no more. I have known much of sorrow, but have experienced something of happiness. When I reflect that my Sovereign, in the midst of his own afflictions, graciously condescended to sympathize with mine; when I reflect on the flattering attention which I have experienced from most of the branches of the Royal Family; I feel the strongest incentive for making every honourable exertion to rescue my character from imputation. But, when I reflect upon the condescension of the most illustrious of your House; when I reflect on his reception of my poor husband, who, overwhelmed with anguish, threw himself,

in the years 1788 and 1789, upon his Royal mercy, and implored him to accept the full confession of the wrongs he had done me and his children, as the best atonement he could make for them ; when my mind recalls the benignity which soothed and encouraged the penitent to pursue the course which truth and justice prescribed ; when I reflect on that interview,—what are not my obligations to that truly princely dignity, by which, with the aid of the venerable Lord Thurlow, my fame was for years delivered from disgrace, and my first-born restored to his rights ? But, my Lords, my obligations do not end even here ; his Royal mind knows not how to prescribe limits to his benevolence. As a companion, Lord Berkeley had been honoured with notice ; as a friend, with esteem ; and when he thought himself a dying man, which he did when he last saw his Royal Highness, he found a comforter ; and, oh ! my Lords, how can I describe what I experienced from his sympathy ?

My Lords, there may be, and I doubt not that there are, thousands of instances in which that Royal Personage has displayed that superiority of mind, which so pre-eminently qualifies him for his high station.

But, my Lords, amidst all the troubles which surround me, it is a source of great consolation to know, that Lord Berkeley never did disown me to the Prince Regent ; but, on the contrary, from the year 1792, when the late Lord Fife first mentioned to his Royal Highness the subject of a private marriage having taken place between us ; and soon after, when his Royal Highness mentioned it himself to Lord Berkeley, he declared “ that I was not his mistress, but “ his wife, and the worst-used woman in “ the world ;” and, from that time to the day of his death, he invariably spoke of me to his Royal Highness as his wife.

Lord Berkeley never had the most dis-

tant idea of deceiving his Royal Highness ; and whenever I, or my children, became the subject of conversation, his declarations were always uniformly the same, and he never breathed but sentiments of regret for his former conduct, and expressions of love and esteem for his family. How have I, therefore, my Lords, to lament, that the communication of declarations offered by his Royal Highness during the late investigation was not received !—How have I to lament, that a weight of evidence, flowing from such a source, and pregnant with conviction, should not at least be contrasted, upon your Lordships' minutes, with that of the Noble Marquis of Buckingham !—May I venture to add, that I think, if your Lordships had received it, and, with it, had taken into your consideration my exemplary conduct from my earliest infancy, I should not only have been acquitted of crime, but my moral character could never have suffered one moment in your Lordships' estimation.

I, nevertheless, my Lords, bow with humility to your decision, not doubting but it is founded upon the strictest justice, and dictated by the purest wisdom.

My gratitude to his Royal Highness can only end with my life : for, great and exalted as his high situation is, it is exceeded by the qualities of his mind. His benevolent feelings towards me and my children, and his gracious friendship towards my husband, even to the last moments of his life, induced me, at the request of Lord Berkeley, and during his last illness, to write to his Royal Highness, which I did, as follows :—

“ SIR,

“ The extreme anguish which I am feeling at present almost unfits me for any thing ; but your Royal Highness’s unexampled kind friendship to my husband, myself, and family, as well as the great benevolence of your nature, leads me to hope you will not be angry at my expressing the unfeigned gratitude which fills my mind, for your Royal Highness’s great goodness in your inquiries after Lord Berkeley. Alas, Sir ! I am sure

your Royal Highness will be shocked when I tell you nothing but a miracle can save his life: indeed, I dare not hope: but, at the same time, I have not fortitude to bow my head as I ought to the severe stroke. Lord Berkeley has something internally wrong; the fever goes on, and he is now reduced to the weak state of infancy; but his mind is as acute as ever, and the kindness of his expressions to me are ten times more cutting than I can express: I have never left him night or day, nor will I while life remains. I need not tell your Royal Highness the severe affliction I am labouring under: not only the father of my children, my friend, my companion, is removing from me, but my concealed marriage hangs heavily upon me. My husband, (I trust your Royal Highness will forgive me, but my heart appears bursting,) my beloved husband, knows I am writing to you, and bids me say, he dies happy, because the Prince, the Heir-Apparent of his country, will befriend his children; and, as far as possible, by his great example, do justice to me and my beloved Dursley. I know I ought to support myself for the sake of ten children, but the cruelly blasted prospects of early life press hard upon me, and at this time I appear to forget every duty but that of subscribing myself

Your Royal Highness's

Most dutiful and affectionate Servant,

“ MARY BERKELEY.”

This was answered by his Royal Highness, in a letter dated August 8th, 1810, written by his own hand, and breathing every sentiment which the most refined feelings of friendship could suggest. The protection held out by this letter to me, and my children, administered comfort to the last moments of my husband; and I value it as a most estimable pledge of the continuance of his Royal Highness's good opinion of me, and as such shall ever treasure it, and prize it beyond any thing which I possess. My Lords, the sentiments it contains should be written in letters of gold, that future ages might know how to estimate the mind, and judge of the benevolence of that illustrious personage who wrote it.

Subsequently also to the letter, and during the investigation, his Royal Highness's great anxiety to possess your Lordships of the important declarations he was in possession of, and his condescending

goodness in commanding me to state to your Lordships, that he would spare me the painful detail of my sister's former situation, (which bitter cup I was obliged to drink to the dregs,) by making the communication himself, are circumstances never to be obliterated from my mind.

Such was the friendship, my Lords, with which I was honoured in 1810; and can your Lordships suppose that any worldly consideration could have induced me to hazard the loss of it? They who know me best, my Lords, know that ambition is not the order of my mind. Domestic happiness I have ever looked for in the discharge of domestic duties; and the highest gratification to be derived from social intercourse, I have experienced in the charities of the heart, which, acquainted with its own imperfections, knows how to allow for the imperfections of others. I pretend not to exemption from failings, but I am proudly confident that I am free

from vice. I have been tried, and I may say severely ; but that Providence which has allowed of it, and “ who tempers the “ wind to the shorn lamb,” hath still supported me, and, I am confident, will not abandon me in this, the severest trial of my life ; but, in his great mercy, will, in due time, reveal the truths of my heart, and justify me even unto man. My Lords, I await that period with confidence, as that which will entitle me to your respect, and perhaps to something more ; but, should life give way to the pressure of accumulated sorrows, the sympathy of the Peerage will, I trust, be the inheritance of my children.

A P P E N D I X.

No. I.

Referred to in Page 21 of the Address.

BROOK WATSON, *Esq.*

Examined before the Committee, 20th June, 1799.

WHETHER you know a gentleman of the name of Tudor?

I do.

Whether he has acted in the capacity of Commissary, under your direction?

• He has.

How has he conducted himself in that capacity?

I had reason to be satisfied with him, believing him a man of truth, and zealous for the King's service.

Do you believe Mr. Tudor to be a man of strict honour?

I believe Mr. Tudor to be a man of strict honour; I gave him a charge, and he discharged that duty to my satisfaction.

Have you any reason to doubt his veracity?

Not in the least.

When were you acquainted with Mr. Tudor first?

Mr. Tudor was sent out as a clerk to the Commissariat, in the fall of the year 1794.

You were not acquainted with him before that time?

Never saw him, nor heard of him.

Did you ever hear of his passing by any other name than that of Tudor?

Never, till I heard of the proceedings in this House.

Have the opportunities of observing his conduct, with respect to the points to which you have already given evidence, been frequent, since you have been acquainted with him?

I was not in any habits of intimacy with Mr. Tudor, further than inspecting his duty as an Assistant Commissary, and the greater part of the time he was a considerable distance from me.

Had any complaint, relative to the conduct of Mr. Tudor, in the Commissariat Department, been made to you, would you have removed him from his situation, or not?

If any complaint had been made to me, deserving a serious inquiry, I should have reported the case to the Commander in Chief, and brought him to a Court-Martial.

By whom was Mr. Tudor recommended to you, or by whom sent out to you?

Mr. Tudor brought me a letter from the Treasury,

as a clerk; he was recommended to me by Lord Berkeley.

HAVILAND LE MESURIER, *Esq.*

Are you acquainted with Mr. Tudor?

I am.

Do you know in what manner he has conducted himself, in his capacity of Under Commissary?

I have known Mr. Tudor, ever since the month of November, 1794, being then in the situation I was, of Deputy Commissary-General to the Army; I knew him then only for some days, because it was at Arnheim, in Holland, and from thence he was sent upon duty to Rotterdam; from that time I was separated from him in the line of my duty, till the beginning of the year 1795, when I found him in Germany, and being then left in charge of providing the whole army, he necessarily came under my orders. He remained upon the Continent till the army embarked, and to the best of my recollection, and I can speak positively, at least to the end of the month of January, 1796. I myself left the Continent, within a few weeks afterwards. I then lost sight of Mr. Tudor, until the commencement of the year 1797, when I was appointed to the superintendency of the Southern District in England, and Mr. Tudor was then on my Staff; he so remained until the end of the year 1798, when I no longer remained in that situation. That is what I know of Mr. Tudor, respecting dates.

How did he conduct himself, during that time?

He has always conducted himself in a very satisfactory manner, as far as he was under my orders; and, I believe, in every respect, as far as regards his public duty.

Do you know any thing amiss of his private character?

I have only known Mr. Tudor officially, except occasionally I have heard from his brother Officers; and all that I have heard from his brother Officers, and what I have known myself, has been perfectly respectable.

Do you believe Mr. Tudor to be a man of honour and veracity?

Certainly, as far as I can possibly know.

The following letter from Mr. Le Mesurier, bears further testimony to the good character of Mr. Tudor:—

MY LORD,

I HAVE the honour to address your Lordship, at the request of Mr. Assistant-Commissary Tudor, who wishes me to bear testimony to his services in the Commissariat, so far as the same came within my knowledge.

When I was put in charge of providing the army on the Continent, Mr. Tudor was receiving the magazine at Verden, and remained there until it was sold, when the British troops, and the Commissariat's Staff with them, returned to England. That service was not very active, owing to the situation of the army, which was at a distance, for the most part, from that magazine;

but it is to Mr. Tudor's credit, that his accounts were regularly brought forward, and have been approved of by the Bench of the Auditors of Public Accompts' Office, that was appointed to examine them.

In the beginning of 1797, I had the satisfaction of seeing Mr. Tudor on the Staff for the Southern District, and from that time to the beginning of the present year, when I resigned the situation I held, I have had frequent occasion to witness Mr. Tudor's zeal and attention to his official duties; but his activity and judgment were particularly conspicuous during the forced marches of the Hereford and Worcester regiments of militia; and I shall ever consider myself as greatly obliged to him on those occasions, and cannot but attribute the punctual and creditable execution of that novel and interesting service to the exertions of the officers who led the columns, particularly to him, whose columns were conducted with distinguished punctuality.

I shall be happy if this testimony can prove of use to him, or satisfactory to your Lordship, and have the honour to remain, with due respect,

My Lord,

Your Lordship's most obedient

and humble Servant,

HAV. LE MESURIER.

Austin Friars, 1st March, 1799.

(Copy.)

*Extracts from the Evidence of JOHN HARRIOTT ROE,
Esq. given before the Committee, on the 20th June,
1799.*

Are you acquainted with Mr. Tudor?

Yes.

Of what profession are you?

A Barrister at Law.

How long have you been acquainted with Mr. Tudor?

I believe it is since the year 1786; I fancy about January, 1786.

Did you ever hear him speak of Lady Berkeley's first marriage?

Since the second marriage, I believe I have; I rather believe it is since the date of the second marriage. In the summer of the year 1797, as I was in my way to join the circuit, I met Mr. Tudor, near Stilton. In the course of conversation, after supper, I made inquiries after his sister Maria. He said, you have heard that she has been declared now my Lady Berkeley. I answered, No. He said, that it always had been so; that he himself was present at the marriage, not saying particularly which, but that it had always been so. At that time I knew of no second marriage having taken place. That Lord Berkeley had induced him not to mention the marriage, for reasons which his Lordship had; that he conceived it sufficient, if he knew it; and some observation that, could I have supposed he would have suffered her to live with Lord Berkely? Not exactly those words, but to that purport.

From the knowledge you have of Mr. Tudor, have you reason to consider him a man of veracity and honour?

I have every reason to believe him so, having had frequent opportunities of seeing him, and being in his company.

When speaking of the marriage, you understood not a recent marriage, but a marriage that had taken place before?

Never having known of any second marriage, a doubt never occurred to me; I clearly understood him to mean, all along throughout. Mr. Tudor was aware that she was under Lord Berkeley's protection, and therefore I fancied I understood what he meant, when he said all along.

No. II.

Referred to in Page 22 of the Address.

Lord Berkeley having promised to procure for Mr. Tudor the appointment of Receiver-General for the county of Gloucester, and having afterwards made a similar promise to his brother Admiral Berkeley, applied to Mr. Tudor to release him from his promise to him; in answer to which application, Mr. Tudor wrote the annexed letter :—

Lichfield, Dec. 17th, 1809.

DEAR LORD BERKELEY,

Absence has been the cause of my not answering your letter of the 12th inst. sooner, respecting the

relinquishment of the promise made me, of the Receiver-Generalship. I lose no time in assuring you that whatever may have been my prospect, or my expectation, it is sufficient for you to express a wish only, for me to acquiesce. I relinquish it with the greatest pleasure, and shall feel happy in having it in my power to convince you, that there is no moderate sacrifice I would not make to serve the family. I now only wish that it may answer your expectation, relative to future advantages; and that those on whom it may be bestowed, may be highly deserving. If you would be so kind to send me an *old hare*, some time next month, I shall think myself richly repaid.

I am, dear Lord Berkeley,
most sincerely and affectionately,

W. TUDOR.

P. S. Enclosed herewith are three five-pound notes, and four one-pound notes, making the nineteen pounds Augustus drew for, for which I am very much obliged. Be so good to let me know if they got safe.

No. III.

Referred to in page 25 of the Address.

From the Morning Chronicle of June 4, 1802.

EARL OF BERKELEY'S PEDIGREE.

Lord Clifton (Earl of Darnley) rose to remind their Lordships of some proceedings that had taken place

three years ago, relative to the pedigree of the Earl of Berkeley. The proceedings to which he had alluded, had occupied the attention of the House for some weeks, and were at length put an end to by the motion of a Noble and Illustrious Duke opposite to him (the Duke of Clarence); and as that motion left the proceedings in a very unfinished and imperfect state, he thought it highly necessary, for the honour and feelings of the noble persons implicated in the inquiry instituted, to move for the revival of those proceedings, and therefore he would wish to have the question of adjournment read.

The question was accordingly read from the minute-book of the Committee of Privileges, and was as follows:—

Die Jovis, 20 Junii, 1799.

“ Then it was moved that this Committee do now
“ adjourn. Accordingly the same was adjourned.”

Lord Darnley resumed his speech. He said many of their Lordships would doubtless recollect that the grounds which led to the motion of the Noble and Illustrious Duke were these:—A Noble Duke, whom he did then see in his place (the Duke of Richmond), had put a question to a witness at the bar, which involved, in the answer it called for, what must necessarily have given great offence to the delicacy and feelings of the noble persons implicated in the result of the investigation then proceeding upon. He had therefore, his Lordship said, taken the liberty to object to the ques-

tion being put ; and a conversation arising thereupon, a Noble and Learned Lord, now present, strongly reprobated the whole proceeding as futile in itself, and inapplicable to any functions that the House possessed ; in consequence of which declaration, and a coincidence of sentiment in the minds of several other Noble Lords, the Noble and Illustrious Duke moved the adjournment, which was agreed to. Lord Darnley said, it was not necessary for him to detain their Lordships with entering into further particulars of what passed in 1799, upon the subject ; he would therefore content himself with moving, that the said proceedings be revived in the Committee of Privileges next Thursday.

Lord Thurlow rose, but spoke in so low a tone of voice that we could not well or distinctly collect his meaning ; but we understood him to say, that for the very reason which in 1799 induced him to state his objections to the proceeding then going on, he must resist the motion just made by the Noble Lord. He objected in 1799, because the House engaged in a transaction that was in itself a nullity, the House possessing no jurisdiction whatever over such a cause as they were then engaged in. They were, in fact, trying a cause involving the interest of parties not before them, parties who were minors ; and a cause involving considerations of great delicacy with regard to the feelings of noble persons, with the disposal of whose property they had no right to interfere, and in a manner perfectly repugnant and revolting to every principle of

law and justice, because all their examinations of persons called to the bar amounted to nothing—it was not evidence, and could not be received as evidence in any court of record in the kingdom. But, exclusive of this, his Lordship said, a new and still stronger reason had arisen in the interval since 1799. He had been informed that a regular process had been instituted in the highest court below, the Court of Chancery, where legal evidence could be regularly taken, and which must be received as such in every court of law in Westminster-Hall; and the result, he was given to understand, had been, that the Earl of Berkeley's first marriage had been by a body of unquestionable evidence clearly established, and his eldest son not only proved to be his first-born male issue *de facto*, but his legitimate eldest son. All the clouds and doubt, therefore, that had been thrown upon that very interesting and important circumstance, on account of the first marriage having been celebrated in private, and a second marriage been subsequently celebrated, were removed and cleared up. His Lordship said, that in addition to the reasons that he had stated, which had led him to object to the proceedings going on in that House in 1799, and which now induced him to resist the Noble Lord's motion, one strong additional argument against which arose out of the fact of the parents being examined, which was essential to the merits of a cause of the nature he had described, and to the interests of all the parties, whenever the parents' testi-

mony could be legally taken and made matter of legal evidence; and in the case in the Court of Chancery it was legal evidence, but in that House the parents could not even be heard. So far, therefore, from concurring in opinion that the proceedings should be renewed before their Lordships, he should be for a very different mode of proceeding; and that would be, to move for the repeal of the standing order, and annul the orders issued to Garter King of Arms under its authority. His Lordship detailed the particular powers that were given to Garter King of Arms under that order, and reasoned upon their effect, in order to shew the absurdity and inefficacy of any inquiry instituted by virtue of what Garter King of Arms thought it his duty to bring forward in consequence of the order's reference to him. After a good deal of reasoning, his Lordship concluded with moving, as an amendment, to leave out the principal words, and to insert, "that the standing order be repealed."

The *Lord Chancellor* left the woolsack, and said, it had not been his good fortune to hear distinctly what the Noble Lord who made the original motion had said: and as to what had passed in that House, on a former occasion, their Lordships would recollect, that he had not at that time the honour of a seat in the House. He knew, therefore, nothing respecting them, further than what had come to his knowledge by means of a proceeding that had regularly been brought before him, in the place in which his Majesty had done him

the honour to place him ; he meant the Court of Chancery. A process had been there formally instituted, in consequence of a suit brought by a minor to establish his right to eldership, in consequence of which he claimed a right to his father's title and honours, as well as his fortune after his demise, whenever that event should take place; that claim depended altogether on his own legitimacy, which could only be established by the validity of his father's marriage previous to his own (the son's) birth being legally proved. It was undoubtedly true, that the testimony of a father and mother can in such a case be taken in the Court of Chancery, and is to all intents and purposes legal evidence, as it would be in every other court of law, where it must ever continue to be received in future time as a legal record, after their demise, whenever an issue shall be to be tried to which it bore relation, because it is taken in *perpetuam rei memoriam*, as it is usually termed. Upon the pleadings and depositions urged and produced in the cause to which he had just referred, the legality of the first marriage of the Earl of Berkeley and his present Countess was fully proved and established. But it was a practice of that court, founded on the strictest principles of equity and justice, to allow a person acting in the character of what was technically called the *near friend* of any other of the children born subsequently, and after the celebration of the second marriage, to enter a claim on behalf of such other child, in order to have it recorded, to re-

main hereafter to be brought forward, in case such minor, when become an adult, and after the demise of his parents, should choose to litigate the claim so recorded; and in that case, he, as well as his brother, would be entitled to all the advantage of his deceased parents' evidence having been recorded, in order to preserve it in *perpetuam rei memoriam*. His Lordship said he spoke with great deference, and he might say almost with trembling, when he opposed any reasoning of his to any opinion advanced by his Noble, Learned, and experienced Friend, the Noble and Learned Lord opposite to him; but there was a shade of difference of opinion between them upon a part of his Noble and Learned Friend's argument, which he stated. His Lordship earnestly cautioned the House against instituting any proceeding within those walls, that might eventually, in possibility, weaken the genuine effect of the legal evidence already recorded in a Court of Chancery; and declared, that he not only spoke from his head, but he might on such an occasion say, he spoke from his heart, when he gave their Lordships this advice. He added more observations, all tending to enforce the serious caution that he had pressed upon them with so much anxiety and earnestness.

Lord Clifton (Earl Darnley) lamented that he had not made himself clearly understood by the Noble and Learned Lord; all that he wished to do upon the present occasion was to remind such of their Lordships

as were in the recollection of what had passed in 1799, by the proceeding having been adjourned ; and as it was then left in an unfinished state, to move for the revival of the Committee, in order to dispose of the whole matter one way or the other, so as to put an end to it ; but what had fallen from the Noble and Learned Lord near him (Lord Thurlow) made it indifferent to him whether his motion was agreed to or not. His end would be fully answered.

Lord Thurlow rose to reply to what had fallen from the Noble and Learned Lord on the woolsack. He shortly recapitulated his former arguments, in order to convince the House of the inefficacy of trying a cause *ex parte* with the parties not before them, where all their examinations of witnesses went for nothing, as it could not be received in any court of law as legal evidence, and thus continuing to carry on proceedings by which nothing could be got. In order, therefore, to put an end to such practices, and to get rid of the disgrace of instituting a mode of trying causes unknown to any other court of judicature in the kingdom, he would move that the standing order be repealed next Thursday.

The *Duke of Norfolk* said, was the Noble and Learned Lord aware that he could not move a repeal of a standing order without giving a previous notice ? He apprehended, therefore, that the Noble Lord only meant what he had said as a notice for Thursday next.

Lord Thurlow said he was in order correctly. That the rule was to state a motion for the repeal of a stand-

ing order, and name a subsequent day for taking it into consideration.

The *Duke of Norfolk* said, he desired it might be understood that, under such a notice, it would be impossible to do any thing more or less than to repeal the whole standing order, whereas, perhaps, some Noble Lord might wish to modify and amend it, so as to rescind the objectionable part, and still preserve the unobjectionable part, under which their own dignities had been maintained, and much good had resulted from it.

A short conversation took place upon this between the Duke, Lord Thurlow, and the Lord Chancellor.

Lord Thurlow said, among other things, that they might make any order they pleased in order to preserve the dignity of their proceedings, but that he would not give a pinch of snuff for all the pedigrees that had been laid on the table.

Lord Darnley rose once more, merely to express his wishes, that, let the turn of that proceeding be what it might, the Noble Earl who had been the main subject of all that passed in 1799, to which he and other Noble Lords had referred that day, would not be suffered to remain without something being done to remove the very unpleasant feelings that must have agitated his mind, and that of his noble family, for some time past.

At length Lord Darnley's motion was put, and the *Not Contents* had it; and then Lord Thurlow's, which was agreed to.

From the Morning Chronicle of June 19, 1802.

BER KELEY PEDIGREE.

The order of the day for taking into consideration the motion to repeal the standing order, No. 129, being moved and read,

The Reading Clerk read the standing order at length.

The *Earl of Suffolk* then said he could have wished that the Noble and Learned Lord who had moved for the repeal of the standing order, and for whose opinions he entertained the greatest deference, had stated the grounds upon which he moved for the repeal of an order, under which great good had resulted; he had hoped that at least some part of it had been suffered to remain, because, undoubtedly, the recording the claim of Peerage, and the delivery of Peers' pedigrees, had, in various instances, been of the highest utility. He would mention an instance, and that his own case, which he knew extremely well. His father, his Lordship said, was a seventh son, and had fallen at the siege of Carthagena, for he was a military man, when he was an infant of two years old. He had not, therefore, known his father, and such had been the case with his father, as his grandfather died coming from America in a man of war, of which he was Captain, when his father was an infant. The little prospect of the two Earldoms that he had devolving to him, would have occasioned the

difficulty and embarrassment of having to prove descents of the titles of Earl of Suffolk, and Earl of Berkshire, for ninety years together, had not a particular circumstance intervened ; but, as it was, he had the descents of seventy years to prove ; and how could he have done it, if the pedigrees had not been delivered in ? The present standing order had been made in the case of Lord Parham, after much consideration, and therefore he hoped that it would rather be amended, if there was any part of it productive of mischievous or improper consequence, than wholly repealed. His Lordship touched upon the descent of his Earldoms in future ; but it recalled to mind the recent and unfortunate loss of his son, and affected his feelings so forcibly, that he could with difficulty get the better of them. He therefore said, he would content himself with the single instance he had mentioned, and merely state his wish, that the order might be modified, but not at that period of the Session repealed, without further consideration.

Lord Thurlow said, he was sorry that he had explained the grounds on which he moved the repeal of the standing order, or that the Noble Earl had been present when he had done so, on a former day, because it would have saved the Noble Earl the trouble and pain he had been put to. He had been induced to move its repeal, because, in consequence of the authority it gave in one part of the order it contained, a cause had been under trial before a jurisdiction not competent to entertain it, upon which it could not

decide, and before which legal evidence could not be given. That cause too, his Lordship said, was the cause of minors, who were not before the House either themselves or by trustees. With regard to the first part of the order, that which referred to the delivery of pedigrees, and all the useful result to which the Noble Earl had spoken, he highly approved of it, and should be as ready as any one Noble Peer, after the standing order was repealed, to assist in framing a new order, that should contain that part of the present standing order, and amend it still further. To the second part he had some objection, and to the third still more, which would let in Peetrages and Peers of different descriptions, and Roman Catholic Peers, who could not otherwise exhibit pedigrees, as they were excluded from seats in the House. His Lordship enlarged upon these two orders which it contained, and shewed that they led to the sort of improper course which had been put a stop to by the adjournment of the Committee of Privileges further proceeding in the case of the Noble Earl to whom the stirring the present subject referred. The former proceeding having gone to the length that it did, it was due, in common justice and humanity, to the feelings of those concerned, to repeal the standing order under which such a proceeding had been entertained. His Lordship, at some length, discussed the principles and grounds on which he had been induced to move the repeal.

The *Duke of Norfolk* rose with great deference to the Noble and Learned Lord, to differ somewhat in opinion even from such high authority; but he saw no reason why the whole order should be repealed without further consideration, and more deliberate discussion, than the House could, at that period of the Session, give to it. In one fact stated by the Noble and Learned Lord, he believed the Noble and Learned Lord was in an error, viz. that Roman Catholic Peers were not allowed to prove their pedigrees. He conceived the fact was otherwise, because although, for reasons of State, Roman Catholics were not allowed to take their seats in that House, yet it would be the highest injustice to deny them the exercise of the right to prove their claim of Peerage; they or their descendants might think fit to change their religion, and by conforming, entitle themselves to a seat in the House. Ought a depending claim of that sort to be prejudiced or defeated? Undoubtedly no Noble Lord would say it ought. With regard to the standing order, his Grace said that much advantage had been derived from it: that it was made in the year 1770, in consequence of the case of Lord Willoughby, of Parham, which happened about 1769; that it had, therefore, been deemed a wise and necessary order by our ancestors; that it had consequently the authority of thirty-two years in its support. He had, he feared, been the cause of the consideration of the order having been deferred to that day, as it had been put off to suit his

convenience, and he was sorry for it, as it had deprived him of the presence of another Noble and Learned Lord, the Lord Chief Justice, from whom he had received a letter, expressing a regret that it was impossible for him to attend that day, but that he had not quite made up his mind upon the motion for the repeal of the standing order. To that Noble and Learned Lord's authority he had to add that of the late Lord Mansfield, Lord Bathurst, Lord Camden, Lord Grantley, and Lord Ashburton (names certainly of great and respectable men), who had all concurred in supporting the order. The Duke touched on the case of Lord Berkeley, and the proceedings that had been had upon it, and contended that the having adjourned the Committee *sine die* had done no prejudice—that it left the case unaffected and uninjured, and therefore he saw no reason, on that account, to repeal the order. If it did contain improper parts, those might be modified and amended without repealing the order (and he hoped that such would be the opinion of the House), or to postpone the consideration of it to a future day, early in the next Session, when it might be more deliberately resumed.

The *Lord Chancellor* left the woolsack to say a few words before the House came to a decision on the question. He said, that with regard to the admissibility of such testimony as had been received in the proceedings in that House, in a Committee under the standing order now moved to be repealed, he was

ready to assert, that nine-tenths of it could be received as legal evidence nowhere; but still there was something to be collected from the other part of it, which had in it so much of the character of evidence, that it might prove useful in a court of law, in aid of other testimony. He alluded to the testimony of a father as to the situation of his family; as far as that went, it was equal to the authority of a father's entry of the baptism of his child in a leaf of the Family Bible, or to any memorandum of it in writing at the time lodged in his desk or escrutoire. Certainly, however, if the House encouraged such a course of irregular, and, generally speaking, nugatory proceeding, as had taken place in Lord Berkeley's, it might do mischief hereafter out of that House. If a Peer desired to prove his pedigree in that House, he was entitled so to do, but it ought to stop short with the person in possession of the rank and honours, and not to go into a fruitless and premature inquiry of what would be the rights of his successor, whoever that might be. When the Peer now in possession should be no more, it would be time enough to hear proof of the claim of his successor. With regard to the delivery of a pedigree into that House, that of itself was no higher proof in the view and consideration of law than if the pedigree had been kept locked up in a Peer's possession, as he had before stated, in his desk or escrutoire.

Lord Auckland rose to say a very few words: he thought it would be a more proper way of disposing

of the subject to refer it to the consideration of a Committee of Privileges, who might frame such new order fit to be moved immediately following the repeal of it, if the Committee should think it ought to be repealed. He owned that his mind was not ripe to agree to a repeal of the order, before he saw what was to be moved to come in the place of it; he therefore would conclude with moving an amendment, to leave out the word "repeal," and insert the words "be referred to a Committee of Privileges."

The *Duke of Norfolk* said, that would satisfy him completely.

Lord Thurlow then rose, and said that he moved for the repeal of the standing order, because it was, in justice and humanity, due to the feelings of the Noble Earl and his family. It appeared to him as the next and natural step to be taken after the putting an end to the Committee on which improper proceedings had been suffered to take place; and, when the order was repealed, it would be right to follow it up with framing a new order, in which due provision might be made for all the good that the present standing order was capable of producing.

Lord Auckland said he saw little difference, after the Noble and Learned Lord's explanation had been made, in proceeding in the way the Noble and Learned Lord had recommended, or persisting in his amendment; of the two, his own feelings led him to prefer the latter.

The *Earl of Rosslyn* said, that he, in some degree, felt as his Noble Friend did who had just sat down; but as to the case referred to by the Noble Duke, that of Lord Willoughby of Parham, he was particularly well acquainted with the facts of that case. They were as follows:—One of the sons of an elder branch of the family of a Lord Willoughby, in possession, went to America, and there settled; by so doing he became, as it were, lost to his family, and in a course of time no person here knew of his having, after he migrated, left a family behind him at his decease. In process of time, it not being known that any of the elder branch of the family existed, the Peerage of Willoughby of Parham was claimed by one of the descendants from the younger branch, and he was admitted to take his seat, to which his son succeeded; and after him, a third of the descendants of that branch. By this time a descendant from the migrated son, in America, had come to London, settled here, amassed a considerable fortune, and was well known in London as a man of wealth and worth. He at length discovered that the Peerage had gone in the wrong line, for the then possessor, and his two predecessors, had no right; but it had been the right of his ancestors, and was then his own due right. He did not claim it, because it might be difficult to establish it against a Peer in possession, and that Peer of most excellent character, and universally respected.—The Earl said, the claim to another Peerage, for which he had been concerned at

their Lordships' bar, had some remarkable circumstances in it, viz. the claim of Norborne Berkeley to the title of Lord Botetourt, which was ultimately obtained. In that case he had to establish the descent of the Peerage from the time of Edward the Second downward, and they were able to do it without difficulty till they came to the two last descents, in which they were under considerable embarrassment, on account of the Commissions to inquire having been lost at the Herald Office, though as the testimony itself, got at under the authority of those Commissions was produced, it was admitted to be sufficient proof that such Commissions had been issued. His Lordship treated on the use of inquiries into the landed property of Peers as collateral proof of their claim to Peerage, and related some anecdotes, which did not distinctly reach the Reporter's ear, but created some smiles from the Lords present. At length, after concurring with Lord Thurlow and the Lord Chancellor, that the proceedings in that House under the standing order could not be received in a court of law as legal evidence, he declared he thought the clearest mode of proceeding would be to vote for the original motion, made by the Noble and Learned Lord near him.

The *Earl of Radnor* rose, and summarily recapitulated the former proceeding with respect to the Earl of Berkeley, in which he declared, that the Noble Earl had not been content with proving his own pedigree, but having proceeded further, and gone into matters

concerning his children's birth, &c. the House very properly interfered, and did not permit him to play fast and loose, but stopped the further proceeding altogether.—Lord Radnor said, what had passed in 1799 had tended to afford the eldest son of the Noble Earl, by his second marriage, hints hereafter how to conduct and manage his claim, if he should choose to institute any. That being the case, it certainly was right to close so imperfect a state of the matter as that adjournment of the Committee left it in; but as to the mode of doing so, he owned he preferred the amendment of the Noble Lord near him, to the repeal moved by the Noble and Learned Lord.

The *Earl of Carnarvon* rose to express shortly his opinion that there was no other way of wiping off every trace of the former irregular proceeding, than by voting the repeal of the standing order. His Lordship touched upon Lord Berkeley's case, and said the difficulty that had arisen to the Noble Earl had been incurred through his very natural anxiety to protect the right of his eldest son, and for that purpose celebrating a second marriage. His Lordship, with some warmth, pressed upon the House the necessity of their voting for the Noble and Learned Lord's motion.

The *Lord Chancellor* left the woolsack, to declare that he should not vote for the repeal of the standing order, without entering his solemn protest against the doctrine laid down by the Noble Earl. This gave

rise to a debate of some duration between the two Noble Lords.

Lord Pelham supported Lord Auckland's amendment.

Lord Bolton did so likewise.

Lord Clifton (Earl of Darnley), in a short speech, supported the original motion of the Noble and Learned Lord.

The House divided on the question, that the word " repealed" stand part of the question.

Contents, 19—Not Contents, 13.

The *Lord Chancellor* pledged himself to the House to follow up the motion just carried with a motion for a Committee of Privileges to frame a new standing order, in lieu of that rescinded.

No. IV.

Referred to in page 28 of the Address.

Depositions of Witnesses, taken at the house of Thomas Tilt, bearing the sign of the Castle, in the town and parish of Brighthelmston, in the county of Sussex, on Thursday, the 27th day of August, and several following days, in the forty-first year of the reign of our Sovereign Lord

Geōrge the Third, by the Grace of God, of the United Kingdom of Great Britam and Ireland, King Defender of the Faith, by virtue of a Commission, issued out of his Majesty's high Court of Chancery, directed to John Springett Harvey, Esq. Anthony Hart, Esq. John Hoper, and James Charles Mitchell, Gentleman, for the examination of witnesses in a cause there depending, between the Hon. William Fitzhardinge Berkeley, commonly called Lord Dursley, the Hon. Frederick Maurice Fitzhardinge Berkeley, the Hon. Augustus Fitzhardinge Berkeley, and the Hon. Francis Henry Fitzhardinge Berkeley, infants, under the age of twenty-one years, by the Right Hon. William Lord Craven, their next friend, are complainants; and Thomas Fitzhardinge Berkeley, calling himself Lord Dursley, the Hon. George Charles Grantley Fitzhardinge Berkeley, infants, by the Right Hon. William Lord Grantley, their guardian, and the Hon. George Cranfield Berkeley, and George Henry Frederick Berkeley, an infant, his son, by the said George Cranfield Berkeley, his father and guardian, are the defendants; before the said John Springett Harvey, Esq. Anthony Hart, Esq. and James Charles Mitchell, Gentleman, on the part of the said complainants (the said Commissioners, and the Clerk by them employed, having first taken the several oaths

annexed to and directed by the said Commission to be taken), as follow, to wit :—

The Right Honourable Frederick Augustus Earl of Berkeley, aged fifty-six years, a witness, produced, sworn, and examined, on the part and behalf of the Complainants, deposeth and saith as follows :—

1st.—To the First Interrogatory this Deponent saith, that he hath known all the Complainants and Defendants, from their infancy ; the said Complainants and the Defendants Thomas Moreton Fitzhardinge Berkeley, and George Charles Grantley Fitzhardinge Berkeley, being the children of this Deponent ; and the Defendant George Cranfield Berkeley, being the brother, and the Defendant George Henry Frederick Berkeley, being the nephew of this Deponent.

4th.—To the Fourth Interrogatory this Deponent saith, that on the thirtieth of March, in the year one thousand seven hundred and eighty-five, he intermarried with Mary Countess of Berkeley, his present wife, then Mary Cole, spinster, and that this Deponent was twice married to her ; and this Deponent saith, that the first marriage between him and the said Countess of Berkeley, was had and solemnized in the parish-church of Berkeley, in the county of Gloucester, by the Rev. Augustus Thomas Hupsman, the officiating minister of the said parish. And this Deponent saith, that the persons present at the said marriage were this Deponent, Lady Berkeley, her brother

William Tudor, the Rev. Mr. Hupsman, officiating minister, and a person who officiated as clerk at the said marriage, whose name *this Deponent believes* was Richard Barnes, but who was unknown to this Deponent. And this Deponent having looked upon the paper writing shewn to him, at this the time of his examination, marked with the letter B, saith, that so much of the said paper writing as is in the words following, viz.—“ Frederick Augustus Earl of Berkeley, “ of this parish, bachelor, and Mary Cole, of the same, “ spinster, were married in this church, by banns, this “ thirtieth day of March, in the year one thousand “ seven hundred and eighty-five—This marriage was “ solemnized between us, in the presence of”—is of the proper hand-writing of this Deponent; that the words “ *by me*” and the signature “ *Augustus Thomas Hups-* “ *man, Vicar,*” set and subscribed to the said paper writing, are of the hand-writing of the Rev. Augustus Thomas Hupsman, and were written by him, in this Deponent’s presence. That the name or title “ *Berkeley,*” set and subscribed to the said paper writing, is of the proper hand-writing of this Deponent, and that the name “ *Mary Cole,*” also set and subscribed thereto, is of the proper hand-writing of the said Mary Cole, now Countess of Berkeley, and was written by her in this Deponent’s presence; and that the name “ *W. Tudor,*” also set and subscribed thereto, as one of the witnesses to the said marriage, is of the proper hand-writing of the said William Tudor, and

was written by him in this Deponent's presence; and that the mark upon the said paper writing, therein described to be the mark of Richard Barnes, was made in the presence of this Deponent, by the person who officiated as clerk, at the solemnization of the said marriage; and this Deponent saith, that the words "*the Mark*" on one side of the said mark, and the words "*of Richard Barnes*" on the other side thereof, were written by the said Augustus Thomas Hupsman, in the presence of this Deponent; and this Deponent further saith, that so much of the said paper writing as is hereinbefore mentioned to have been written by this Deponent, was written by him in the said parish-church of Berkeley, about a quarter of an hour before the marriage ceremony began; and that immediately after the marriage ceremony was ended, the said paper writing was signed by the said Augustus Thomas Hupsman, this Deponent, the said Mary Cole, William Tudor, and the said mark was made by the said Richard Barnes, in the said parish-church of Berkeley; and this Deponent further saith, that at the time he wrote so much of the said paper writing as is hereinbefore mentioned to have been written by him, or at the time the same was subscribed by the said Augustus Thomas Hupsman, this Deponent, the said Mary Cole, and the said William Tudor, and the said mark was so made by the said Richard Barnes, the said paper writing was not a separate or detached piece of paper, but that the said paper writing, at the times aforesaid,

constituted a leaf or part of the marriage-register book for the said parish of Berkeley, and that the said book was kept by the said Mr. Hupsman, as this Deponent understood and believed.

5th.—To the Fifth Interrogatory this Deponent saith, that certain peculiar circumstances rendered this Deponent desirous, at the time of his first marriage, to keep the same a secret, and that this Deponent was anxious it should remain secret while those circumstances continued to exist; and this Deponent saith, that those circumstances did exist until some time in the year one thousand seven hundred and ninety-four, when they ceased; and this Deponent further saith, that at the time of the said first marriage he strictly enjoined Lady Berkeley, William Tudor, her brother, and the Rev. Augustus Thomas Hupsman, who were privy to the said marriage, profound secrecy, respecting the same.

13th.—To the Thirteenth Interrogatory this Deponent saith he consulted the said Augustus Thomas Hupsman, the then officiating minister of the parish of Berkeley, and Chaplain to this Deponent, as to the most effectual means of solemnizing the marriage privately, and in such a manner as to prevent its becoming public; and that the said Mr. Hupsman desired to take time to consider of it, and he afterwards recommended that it should be by banns, in the parish-church of Berkeley; and this Deponent saith he at first objected thereto, as not being likely to keep the marriage secret,

but that Mr. Hupsman told this Deponent that the banns might be so published as to escape observation, and this Deponent at length consented thereto; and this Deponent understood from the said Mr. Hupsman afterwards, that the said banns were published in the months of November and December, one thousand seven hundred and eighty-four; and this Deponent saith he so advised with the said Mr. Hupsman, six weeks or two months, or thereabouts, before the time when the said banns were so published, as he understood; and this Deponent further saith, that the said Mr. Hupsman recommended that the marriage should be deferred, in order that he might learn whether the publication of the banns had attracted notice, and, in consequence of such recommendation, the marriage was deferred until the end of March, one thousand seven hundred and eighty-five; and this Deponent saith he reposed implicit confidence in Mr. Hupsman, and wholly left the management of the business to his care, relying on him as well for the due solemnization of the marriage, as the so conducting it that it should not be publicly known: that this Deponent was a stranger to the particular measures taken by Mr. Hupsman to that end, except as to the mode and place of solemnizing the marriage.

14th.—To the Fourteenth Interrogatory this Deponent saith, that some few years after the marriage mentioned in this Deponent's answer to the preceding interrogatory, this Deponent heard that a rumour had got abroad in the county of Gloucester, that he was

married; and this Deponent conceiving that Mr. Hupsman, hereinbefore named, had been guilty of a breach of confidence by divulging it, this Deponent wrote to him, and upbraided him in strong terms for so doing; and this Deponent saith, that the said Mr. Hupsman wrote in answer to this Deponent a letter, giving him, this Deponent, to understand, that this Deponent might rely on it, he the said Mr. Hupsman would take such care, that the said marriage could not possibly be known, or to that effect; and this Deponent further saith, that some time afterwards, on this Deponent's refusing some pecuniary assistance to the said Mr. Hupsman, which this Deponent had before given him frequently, to extricate him from difficulties, in consequence of his extravagance, the said Mr. Hupsman pressed for such assistance very urgently, by another letter written and sent by him to this Deponent, and in such last-mentioned letter he added, that he had risked his life to serve this Deponent by destroying the register of this Deponent's marriage, or words to that effect; and this Deponent further saith, that in consequence of this information, this Deponent felt great indignation, although this Deponent knew not how to bring him to punishment, for what he pretended to have done out of zeal, to comply with this Deponent's wish; this Deponent, however, refused the pecuniary assistance which the said Mr. Hupsman required of this Deponent; and this Deponent further saith, that he gave credit to the assertion of the said Mr. Hupsman, and in consequence of his assertion, this

Deponent believed the register of the marriage to have been destroyed, and therefore he despaired of being able to establish, or prove his said marriage, at least during the life of the said Mr. Hupsman, as this Deponent conceived, that he could make no attempt towards it, without exposing the said Mr. Hupsman to the danger of capital punishment.

15th.—To the Fifteenth Interrogatory this Deponent saith, that conceiving, for the reasons stated in his answer to the preceding interrogatory, that the evidence of the marriage was destroyed, and Lady Berkeley, as well as this Deponent, being under great uneasiness on that account, Mr. Tudor, her brother, at her request (as this Deponent was informed by her), and Lady Berkeley herself, with the knowledge and privity of this Deponent, some time in the early part of the year one thousand seven hundred and ninety-six, consulted the late Mr. Bearcroft, the Counsel, as to what was expedient to be done under this Deponent's then circumstances, in the then situation of his family, and the prospect of having other children; and this Deponent saith, he was afterwards informed by Lady Berkeley, that Mr. Bearcroft strongly advised, under all circumstances, a second marriage: and this Deponent further saith, that, in consequence of such advice, a second marriage took place between him and Lady Berkeley, by licence, at the parish-church at Lambeth, on the sixteenth day of May, one thousand seven hundred and ninety-six.

9th.—To the Ninth Interrogatory this Deponent saith, that in the early part of the year one thousand seven hundred and ninety-nine, being under great uneasiness of mind at the supposed loss of the register of his first marriage with Lady Berkeley, and having, in conversation with the Rev. Mr. Carrington, the Vicar of Berkeley, opened to him the cause of such uneasiness, he suggested to this Deponent a possibility of establishing the fact of the said first marriage, by other evidence than the register, and requested the permission of this Deponent to take the opinion of Mr. Mansfield, the Counsel, on that point; and this Deponent saith, that Mr. Carrington, in a letter to Mr. Mansfield, stated the case for his opinion, and that Mr. Mansfield in answer thereto expressed his opinion, that the marriage might be proved by other evidence, although the register thereof should be destroyed; and this Deponent further saith, that very shortly afterwards he attended, with Mr. Boodle, this Deponent's Solicitor, a consultation with Mr. Mansfield, on the means of establishing the first marriage; and that upon such consultation, the said Mr. Mansfield inquired whether the register had been searched for; and being answered in the negative, he advised an immediate search to be made among the papers of the said Mr. Hupsman (who was then dead), as well as in the parish register, for the entry of the marriage, and expressed himself strongly of opinion, that Mr. Hupsman, whatever he might have pretended, would not

have ventured actually to destroy such entry in the register; and that if the entry should appear to have been taken out, some trace of it would appear in the book; and this Deponent further saith, that in consequence of such advice, the said Mr. Carrington was fixed on, with Mr. Mansfield's approbation, to go down, accompanied by a Mr. Scriven, a person recommended by Mr. Boodle, to Berkeley, to make a search for the entry of the register of the said marriage; and the said Mr. Carrington and Mr. Scriven went accordingly, by the order and direction of this Deponent; and this Deponent further saith, that, previous to this recommendation of Mr. Mansfield, this Deponent had no idea of making such search; this Deponent then fully believing, that the register had in fact been destroyed by the said Mr. Hupsman; and this Deponent formed such opinion and belief, that the said register had been destroyed by the said Mr. Hupsman, from the representation made to this Deponent in the aforesaid letter of the said Mr. Hupsman, to which representation this Deponent gave implicit belief.

10th.—To the Tenth Interrogatory this Deponent saith, that in or about the year one thousand seven hundred and ninety-four, in consequence of the said Augustus Thomas Hupsman's repeated misconduct, this Deponent entirely broke with him, and no reconciliation ever after took place between this Deponent and the said Augustus Thomas Hupsman; and this Deponent saith, that the said Augustus Thomas Hups-

man usually resided at the vicarage-house in the parish of Berkeley, till the year one thousand seven hundred and ninety-four, and that he then quitted it on account of his distressed circumstances, as this Deponent believes, and never afterwards resided there to this Deponent's knowledge or belief.

BERKELEY.

The Right Honourable Frederick Augustus Earl of Berkeley, a witness already sworn and produced, and examined on the part of the Complainants, and now cross-examined upon the interrogatories exhibited for cross-examination on the part of the Defendants, deposeth as follows :—

1st.—To the First Interrogatory this Deponent saith, that he is the Right Honourable Frederick Augustus Earl of Berkeley, by this interrogatory inquired after, and that this Deponent hath known Mary Countess of Berkeley, his wife, upwards of seventeen years.

2d.—To the Second Interrogatory this Deponent saith, that the maiden name of the said Mary Countess of Berkeley was Mary Cole; that she did not live separate from this Deponent for any time after the month of March one thousand seven hundred and eighty-five, for that this Deponent, from that time, constantly cohabited with her; and this Deponent further saith, that for some time after the said month of March, one thousand seven hundred and eighty-five, the said Mary Countess of Berkeley was in lodgings in Bruton-street and Lower Grosvenor-street, in Lon-

don, until some time in the year one thousand seven hundred and eighty-six, when the said Countess went to reside in a house in Park-street, London, which this Deponent had provided for her; and this Deponent further saith, that the said Mary Countess of Berkeley continued to reside in the said house in Park-street, until after the birth of the Plaintiff, William Fitzhardinge Berkeley, commonly called Lord Dursley, which was late in the month of December, one thousand seven hundred and eighty-six; that some time after the birth of the said Plaintiff, the said Countess removed to this Deponent's house at Cranford, in Middlesex, from whence, after residing there a short time, she removed to this Deponent's then house, No. 20, in Grafton-street, London, and that she, the said Countess, hath ever since had the same places of residence with Deponent, and no other.

3d.—To the Third Interrogatory this Deponent saith, that from the time of his marriage with the said Countess, in March, one thousand seven hundred and eighty-five, until the time of his second marriage with the said Countess, on the sixteenth of May, one thousand seven hundred and ninety-six, and for some short time after, he, this Deponent, called the said Countess by the name of Miss Tudor, and introduced her by that name to such few of his friends as he did introduce her to; and that this Deponent's original reason for so calling her, and introducing her by that name, was because he wished to keep the said

first marriage secret. And this Deponent saith, that during the time aforesaid the said Countess was known by the name of Miss Tudor to such of his said friends to whom he so introduced her; and this Deponent saith, that the said Countess was, by her servants and trades-people, sometimes addressed by the name of Miss Tudor, and sometimes by the name or style of Lady Berkeley; but this Deponent doth not know whether the said Countess was called by the name of Tudor by her relations, or by what other name. And this Deponent further saith, he believes that some of the letters, which, during the time aforesaid, were addressed to her, were addressed to her by the name of Miss Tudor, and others of such letters by the style or description of Lady Berkeley; and that, during the time aforesaid, several letters were sent to the said Countess by her brother, William Tudor, from the Continent, which were enclosed under cover to this Deponent, and that some of such letters were superscribed "*Maria*," and others, "*My Sister*." And this Deponent saith, that he doth not know or recollect by whom in particular any other letters were addressed to the said Countess of Berkeley.

4th.—To the Fourth Interrogatory this Deponent saith, that the Complainant, William Fitzhardinge Berkeley, in this interrogatory named, was first called or known by the name or title of Lord Dursley in the month of February, one thousand seven hundred and ninety-nine, and that he was called by that name

or title by this Deponent and his family, and otherwise generally, immediately after this Deponent had taken the advice of Mr. Mansfield, mentioned in the answer of this Deponent to the interrogatories on the part of the Complainants, and in consequence of such advice.

BERKELEY.

This witness was examined, and his Deposition taken on the twenty-ninth and thirty-first days of August, one thousand eight hundred and one, by us,

J. S. HARVEY.

ANT. HART.

J. C. MITCHELL.

No. V.

Referred to in page 31 of the Address.

(COPY.)

SIR,

Your Royal Highness has continued your regard and friendship for me, by every act of your life, for more than twenty years: you have continued it to me even on my sick bed, and my heart and soul are filled with gratitude towards you. Your Royal Highness, with the same beneficent justice, continued your regard to my family, when your Royal Highness was acquainted with the situation I had placed my wife and children in, by concealing my first marriage, in 1785.

I am now, **SIR**, reduced to that state, that I think nothing but a miracle can preserve my life; and at this awful moment I presume to address your Royal Highness, to implore you to continue that regard towards my wife and family, you have ever shewn to me: protect them in securing their just rights; and receive, Sir, the latest blessing of one, who, while he continues to live, will pray God to shower his choicest blessings upon you.

Mr. Hughes is obliged to write this; I am unable to do more than sign my name.

(Signed)

BERKELEY.

The original of this letter was delivered into the hand of his Royal Highness the Prince of Wales, on the morning of the 18th of August, 1810, by me,

JOHN HUGHES.

I certify the whole of these particulars to be true.

GEORGE P.



Berkeley-Castle.

MY DEAR CRAVEN,

I feel I am very ill indeed; I think it impossible for me to recover, and I have but one thought on this side the grave, which is my dear wife and children. I know you will fulfil my last request, and therefore it is the greatest comfort to me, to get Mr. Hughes to commit my wishes to paper, for I am unable to do more

than write my name. God bless you, my dear nephew. I need not wish you to love your aunt, my wife, for that I think you do already, as well as my eldest son Dursley; and therefore I request, on my death-bed, you will go yourself to his Majesty, either with this, or in my name, and implore him not to withdraw his goodness from my family, but to continue to my eldest son, Lord Dursley, the Lord-Lieutenancy of the county of Gloucester, who was born in wedlock, after my lawful marriage, in the parish-church of Berkeley, to Mary, now Countess of Berkeley, in the year 1785.

I presume to approach his Majesty through you, feeling, that during the forty years I have been his servant in Gloucestershire, I have made the peace of the county my first care, and carried into effect every Act of Parliament for the good of his Majesty's Government, without being influenced by what Minister was in, or out, as all the county can testify. I am sure my brother George will be gratified at seeing the Lieutenancy given to my eldest son, Lord Dursley.

The only act of my life that I lament, at this moment, is the concealing my first marriage. Once more, my dear Craven, God bless you. I need not hope you will assist my dear wife and son, all in your power, in establishing my first marriage. I have done all in my power to clear the character of the best of wives, who, through her life, has returned me good for evil.

Berkeley-Castle.

MY LORD,

The above letter was dictated by the Earl of Berkeley ; and after he had signed it, on the morning of the 1st of August, delivered to me with his own hand. He strictly charged me that it should be kept a secret from Lord Dursley, and that I should take care to forward it to your Lordship. 'Tis with great regret I state, that his Lordship died this morning, at a quarter past eight o'clock.

I have the honour to be,

Your Lordship's obedient humble servant,

JOHN HUGHES.

Wednesday, August 8, 1810.*Berkeley-Castle, August 1, 1810.*

MY DEAR BROTHER,

I am now nearly reduced to nothing; my life, I think, is drawing to a close; and therefore, from the death-bed of your brother, hear his last wishes, written by Mr. Hughes. I have ever loved you, and I think at this moment (and it is a moment we must all, sooner or later, pass through, and the good or bad of our lives will stand before us), I repeat, I have loved you tenderly, and feel at this moment I have done my duty by you, and by mankind in general; and the only error of my life was the concealing my first marriage,

in the year 1785. I am sure you can have no doubt of the fact, and that my eldest son, Lord Dursley, was born in wedlock. My wife and children I have injured, but I die contented, having made all the atonement in my power.

I therefore entreat of you to assist my wife and son all in your power, in the establishment of her first marriage with me. She has suffered much, and I look upon her as the best of wives and women. God bless and preserve you and all your children, as you do your duty by mine. I am in no pain, but weakness will destroy me.

(Signed)

BERKELEY.

A copy of this letter was sent, by post, to the Admiral; and the original by the Hon. F. Berkeley, when he returned, after the funeral, to Lisbon, Sept. 3d, 1810.

JOHN HUGHES.

No. VI.

Referred to in page 35 of the Address.

*Extracts from the Evidence of Mrs. MARY ROUTH,
given before the said Committee in June, 1799.*

Did you ever see the hand-writing of Mr. Hupsman?
Did you ever see him write?

Yes, many times.

Have you seen the register of Lord Berkeley's marriage?

Yes, I have.

Do you know that to be the hand-writing of Mr. Hupsman?

Yes.

Then the register-book of marriages of the parish of Berkeley, already delivered in, was shewn to the witness, and she was asked, Is that Mr. Hupsman's hand-writing?

I say, that is Mr. Hupsman's own hand-writing.

Is it like what you have seen him write?

It is.

Look at two or three of the other entries, and say if they are all like what you have usually seen.

The witness looked over the book and said, Yes, I believe them all to be his hand-writing.

Do they seem to you to be like each other?

Yes, I think they are all the same hand-writing; but sometimes one's hand-writing may be better than at another, but I believe it is all the same hand-writing.

Then the register-book of banns was shewn to the witness, and she was asked, Whose hand-writing is that?

I think it is the same hand-writing.

Do you believe the signature to the entry of the banns of Lord Berkeley, to be the hand-writing of Mr. Hupsman?

Yes.

Are you sure of it?

Yes.

Is the entry of the banns, as well as the signature, his hand-writing?

I think it is the same hand-writing.

The entry-part of it?

I do not think it is much; I do not think it the same as the name; I do not think the upper part is so much.

Did you ever hear Lord and Lady Berkeley spoken of as man and wife?

I have heard Mr. Hupsman say, that whenever Lord Berkeley died, she would be the Countess of Berkeley.

When did you hear Mr. Hupsman say this?

The first time I ever heard him say it was in the year 1786, in August.

Was she called Lady Berkeley always at that time?

I have heard many people say, that they thought she was Lady Berkeley.

Was she called Lady Berkeley generally?

That I do not know; but I heard many people say, they imagined she was Lady Berkeley.

Did you ever hear her called Lady Berkeley at that time?

No, I did not hear her called Lady Berkeley.

How came you to be so particular, that it was in August, 1786?

Mr. Routh was subpœnaed to Gloucester, and he told me, that, if I chose it, I might go along with him. I went, and there I saw Mr. Hupsman two or three

times while I was there, and I have heard him say several times since, I dare say fifty times, that she was Lady Berkeley. ❀

Since the month of August, 1786, have you, or have you not, considered, and believed, Lord and Lady Berkeley to be man and wife?

I did ever since Mr. Hupsman said she would be Countess of Berkeley.

Do you know the hand-writing of the entry of the banns—of the entry itself?

I am not quite clear to the entry.

You do not know whose it is? .

I cannot say I do.

You are positive as to the signature?

I am.

Mrs. TUCKER *is the Widow of the late Dean of Gloucester.*

Says that in April, 1791, she was taken by her husband to view Berkeley-Castle, and that, stopping previously at an inn in the town, they were visited there by the late Mr. Hupsman, who, being an intimate friend of the Dean's, offered them many civilities, and amongst the rest undertook to shew them the castle. Lord Berkeley was also an intimate of the Dean's, but was not then at the castle; Lady Berkeley was there, then known by the name of Miss Tudor, and, though she did not appear, shewed the Dean and the witness more than usual attention. After they had gone over the castle, Mr. Hupsman would shew them a new

hot-house, about which the Dean expressed some curiosity ; and, in their way there they saw the eldest child, whom the witness admired very much, and expressed regret that he would not inherit that beautiful place ; upon which Mr. Hupsman asked, how did she know that ? and then turning to the Dean, said, that Lord Berkeley and Miss Tudor were married, though the marriage was kept secret, and he repeated it more than once, and said that he had married them ; and afterwards, when they were viewing the church, the witness, who had before heard a report of their having been married in Berkeley church, asked Mr. Hupsman if that was the church in which he had married them ? to which he answered again, that he had married them, but he did not say (that the witness recollects), whether he had married them in that church, or elsewhere.

ARTHUR ATHERLEY, *of Welbeck-street, Esq.*

Says that about the latter end of the year 1794, or the beginning of the year 1795, he became acquainted with Mr. Hupsman, who in the year 1794, and part of the year 1795, was the Curate of Saint Mary's, in Southampton ; Mr. Atherley was occasionally at Southampton, visiting his father, who resided there. Mr. Atherley married a relative of Lady Emily Berkeley ; and Mr. Hupsman, either knowing or pretending to know Lady Emily, used to call on Mr. Atherley, to make inquiries after her, and it was from this circumstance that Mr. Atherley first came to the know-

ledge of Mr. Hupsman. He says, that about the close of 1794, or the beginning of 1795 (for Mr. Hupsman ceased to be Curate of Saint Mary's, in February, 1795), he happened to meet him, for the first time, at a small dinner-party at Dr. Ogle's, the Dean of Winchester, Mr. Atherley, and Mr. Hupsman; there were two or three young men, sons of the Dean. After dinner, Mr. Hupsman, while the Dean was half-dozing, was relating to the young men and Mr. Atherley many facetious stories, and added, that he had been the *factotum* of Lord Berkeley's family. That a few days afterwards, Mr. Hupsman, to Mr. Atherley's surprise, called on him, stating himself to be under some pecuniary difficulties, and solicited the loan of eighty or one hundred pounds. Mr. Atherley declined to lend it him. Mr. Hupsman then added—"I must apply to Lord Berkeley for assistance; he is bound to do any thing and every thing I can ask of him;" and concluded by saying, either that "*MY life is in HIS power*," or, "*HIS life is in MY power*," but which of the two expressions he cannot positively say. Mr. Hupsman left him, and he never had any further conversation with him on the subject.

HARRY WILLIAM HAYNES, *one of the principal Landing Surveyors in the Custom-House, Southampton, and residing in St. Michael's Square there.*

Says that about the year 1793, or 1794, he was in the habit of meeting Mr. Hupsman, at dinner-parties, at

Mr. Burdett's, in that town; that Mr. Hupsman used very often to be talking of Lord Berkeley, and, when speaking of him, used most commonly to call him "my friend Lord Berkeley;" that he seemed pleased to make it known that he was in habits of close intimacy with the Earl, and always describing him as his friend; that many times, when Lord and Lady Berkeley were the subject of conversation round the table, and she has been described as the mistress of Lord Berkeley, Mr. Hupsman used uniformly (unless there happened to be strangers of the party) to declare that they were man and wife, and that he *married them*; that he has heard him make this declaration so often, and with so much earnestness and appearance of truth, that he has not the least reason to doubt but that Lord and Lady Berkeley were married by Mr. Hupsman. He never stated when or where he married them, or under what circumstances. That when he saw Lady Berkeley's evidence, in the newspapers, he then remarked that it was matter of some wonder to him that he was not found out, and applied to, in order to reveal Mr. Hupsman's declarations. This gentleman is son of the late Master of the Ceremonies here—is known to Dr. Hill, Dr. Hackett, and most of the respectable families here, and visits them.

JOHN BURDETT, *of Southampton, Esq.*

Says that, during Mr. Hupsman's residence at Southampton, he was in the habits of intimacy with him;

that he, Hupsman, with Mr. Haynes, and some other friends, were one day in 1793, or 1794, dining with Mr. Burdett, at his house at Millbrook, where he then resided; and that after dinner the conversation turned upon the subject of Lord and Lady Berkeley (as Hupsman was rather fond of its being known that he was intimately acquainted with the Earl), and somebody at the table having represented Lady Berkeley to be nothing more than the mistress of Lord Berkeley, Mr. Burdett perfectly well remembers (as it made a strong impression on his mind), that Hupsman immediately declared, that although Miss Tudor, as she was then called, was living with Lord Berkeley, apparently as his mistress, yet that, in point of fact, she was his lawful wife—that they were legally married—and that he, *Hupsman*, performed the marriage ceremony; and from this assertion of Mr. Hupsman's, Mr. Burdett never doubted but that they were man and wife. Mr. Haynes perfectly well remembers this declaration of Mr. Hupsman's. Mr. Burdett does not now recollect any similar declaration of Mr. Hupsman's.

Mr. Burdett, I understand, was many years ago on the East-India establishment, at Bengal; afterwards, I believe, in Council, and is said to be the only survivor of the persons confined in the prison called the Black-hole, at Calcutta; he is stated to be a most respectable person, lives in a very good style, but his infirmities, he tells me, are such, that he could not get up the stairs to the House of Lords. He is most anxious to serve

Lord Berkeley; so much so, that although he could not get up stairs to reach the bar of the House, still, painful as it would be to him to undertake the journey, he would willingly do it. If any declaration of his, or affidavit, could be received in London, he would attend, so anxious is he to be of service. He has not left his house for some years; he has a series of chronic and other complaints, which has brought on such a total debilitated habit, that at times he cannot move himself.

The Rev. HUGH HILL, D.D. Vicar of Holyrood, in Southampton.

That, in 1792, he was instituted to the living of Holyrood; that, on coming to take possession of the vicarage, he found Mr. Hupsman (whom he had some previous slight knowledge of at college) living at Southampton, and Mr. Hupsman not having at that time any church preferment here, he was in the habit occasionally of doing duty for the different clergymen in the town, who were now and then under the necessity of being absent from their churches; that Dr. Hill was often obliged to be absent from his church, and, on those occasions, he got Mr. Hupsman to attend, and do duty for him; that finding Mr. Hupsman to be a very sensible entertaining man, he often invited him to dine with him; that he once brought Tudor with him, and introduced him to the Doctor, as the brother of Lady Berkeley; that Hupsman, on those occasions, seemed

to take very great pleasure in speaking of Lord and Lady Berkeley (always calling her by that name), and would represent Lord Berkeley as his early patron and best friend; that Lord Berkeley had given him the living of Berkeley, and had promised him another piece of church preferment, so soon as it was vacant. That after dinner it was Mr. Hupsman's custom, very often, to drink the health of Lord and Lady Berkeley, and that he more than once, on those occasions, observed to Dr. Hill, that although her Ladyship was then living with Lord Berkeley by the name of Miss Tudor, and was, in the eye of the world, considered as his mistress, yet that, in point of fact, they were man and wife; that they were lawfully married, and, to the best of his recollection, he thinks he added, he, Hupsman, had married them; but has no hesitation in saying, that Mr. Hupsman stated that they were man and wife: he often so stated it to him.

N. B. After I had taken this account from the Rev. Doctor in the afternoon of the 3d, he requested I would call on him again, the next morning; that he would in the mean time refresh his memory, and talk with Mrs. Hill on the subject, as he thought they might recollect more of what had fallen from Mr. Hupsman, against my calling the next day.—4th of June. I have just been with the Doctor, and, to my surprise and regret, I found the old gentleman most anxious to shift his ground; he told me he was very sorry, but that

Mrs. Hill, and his brother (who were then present), had said to him, that they thought it would be great trouble to him to come forward, and that his memory was not sufficiently accurate to state these facts on oath ; in short, I found they had prevailed on him to padlock his lips, and plead want of accuracy in what he had already stated to me. I am most firmly persuaded it is mere pretence, for I profess I never heard any narrative more unhesitatingly delivered than the account he gave me ; and I flattered myself, from the account Mr. Atherley, Sir John Thomas, Mr. Kent, Dr. Hackett, Mr. Haynes, and Mr. Robbins, all gave me of the Doctor, that he would have been a most important witness. I am fearful he will now, if he were called, plead want of memory.

JOHN ROBBINS, *of Southampton, Esq.*

This gentleman is a person of considerable fortune ; he resides near St. Mary's Church—That while Mr. Hupsman did the duty of this church, for Mr. Kent, he resided next door to him ; their families visited each other occasionally ; but as their gardens adjoined, Mr. Robbins and Mr. Hupsman every now and then conversed on garden subjects, over their fence ; he remembers, one day, observing Mr. Hupsman about to transplant a fruit-tree, and a sort of dispute arose between them, as to whether it could live or not, on being transplanted. Mr. Robbins contended it would not, Mr. Hupsman that it would ; this little contention pro-

duced a wager : it so turned out, that the tree did live, and Mr. Hupsman claimed the victory. The wager was to be spent, and they agreed that they would make a little evening party, at one of the taverns at Southampton, and invite several of their common friends ; they did so. After supper, Mr. Hupsman, as usual round a social table, began to talk of Lord Berkeley, and represented him as his early patron in life, and best friend ; that they were at Eton together, and he told many of their boyish pranks ; and when the conversation turned on Lady Berkeley, he well remembers Hupsman declaring, that although she was living with my Lord as his mistress, yet that they were married, and Mr. Robbins, to the best of his recollection, thinks that Hupsman said he *married* them. Is quite positive that he said they were married ; so much so, that when he heard of the pending Inquiry before the House of Lords, Mr. Hupsman's declaration had made so strong an impression on his mind, and so firmly was he persuaded of the truth of it, that he considered there would be little difficulty for the claimant to establish the fact of the marriage. All the rest of this party are either dead, or gone to different parts.



[*On Record in Chancery.*

THE EARL OF FIFE.

Says he had long been in habits of the strictest intimacy with the late Dowager Countess of Berkeley,

who died, as he believes, in or about the year 1792, and that her Ladyship was always in the habit of consulting him on her private affairs; that some time in or about the year 1787 or 1788, but Deponent cannot exactly ascertain the time, otherwise than that he is certain it was about four or five years preceding the death of the late Countess, her Ladyship sent for Deponent, and after observing to him that she knew he had always lived upon the best terms with her son, the present Earl, informed him that she had particular reasons for believing that his Lordship was married to the present Countess of Berkeley, and indeed that she knew it was so; and the Dowager Countess stated, that she had gone frequently out to Cranford, to visit the present Countess and the children, being satisfied that she was married to Lord Berkeley, and represented to Deponent that she had the highest opinion of the present Countess, and was satisfied that she was a most virtuous, modest, worthy woman, and that it was the height of cruelty in the Earl of Berkeley to keep her in the uncertain situation she was then in; and the Dowager Countess further stated to Deponent, that she had often spoken to the Earl of Berkeley upon the subject, expressing her conviction of his being married, and remonstrating with him upon the cruelty of denying, or concealing it; but that she never could bring him to give any explicit answer, and thereupon her Ladyship requested Deponent to speak to the Earl of Berkeley, and to advise him to declare the marriage,

and authorized Deponent to say that she had desired him to do so, or the Dowager Countess expressed herself to Deponent to that or the like effect; and Deponent in consequence took an opportunity of mentioning the subject to the Earl of Berkeley accordingly, and exhorted him, in case a marriage had taken place, as Deponent could not but believe it had, that he would immediately declare it; and Deponent says, that the Earl of Berkeley did not deny that a marriage had taken place, but appeared distressed by the application, and said to Deponent, with some impatience, "let it alone," or words to that effect. Deponent, at the request of the Dowager Countess, frequently afterwards renewed the application to the Earl, and desired the Earl to introduce him to Lady Berkeley, but the Earl appeared to be much distressed by Deponent's importunity, and always put him off in the like manner as on the first occasion; upon which Deponent used to complain to the Earl that he used Deponent cruelly, and would not make a friend of him, but Deponent could never succeed in bringing the Earl to be open with him on the subject, but he never denied to Deponent that a marriage had taken place, from which circumstances, and from the general manner in which the Earl received Deponent's solicitations, and otherwise treated the subject, Deponent was confirmed in his conviction that the marriage had taken place, although he never could learn or conceived the Earl's reasons for concealing it.

No. VII.

Referred to in page 53 of the Address.

Extract from the Deposition of Mr. PARKER, made in 1801, as appears by a Letter written by my Solicitor, JOHN FORSTER, Esq. of Lincoln's Inn, to me, on the 17th Sept. 1801.

MY LADY,

Mr. Parker has been examined to-day, and the material parts of his deposition are to the following effect:—

“ That he has known Mr. Tudor, and has known
 “ him since 1784; that he is your brother; that he
 “ believes his original name was Cole; that he came to
 “ reside with the Deponent on trial as an apprentice to
 “ him as a Surgeon and Apothecary in the early part
 “ of the year 1785, and continued with him in that
 “ capacity about five months, when he quitted him, but
 “ Deponent knows not where he went, never saw him
 “ for several years afterwards; that during the whole
 “ time of his abode with Deponent, he used and
 “ subscribed Tudor as his surname; that he particularly
 “ recollects, that on the second or third day after his
 “ coming to him, on his being sent out with medicines,
 “ he wrote his name in the day-book, at the foot of the
 “ prescriptions, William Tudor, and used constantly to
 “ do so afterwards, never using or signing by any other
 “ name; that some of the boys who had been at

“ school with him used to call him Cole, but that he told Deponent that Tudor was his right name.

“ He mentions your Ladyship’s residence at Gloucester, from the 16th of June, 1785, till some time in July or August following, and the name of the house where you lodged; his inoculating Mrs. Farren’s child, on the 7th Nov. 1785; his conversation with Mrs. Farren, and his seeing in her hand the letter from your Ladyship, signed Mary B.; his meeting Mr. Hupsman at the mess with the militia officers in May, 1786, and his interrogating Hupsman about the fact of the marriage. He states being himself a Free Mason; and supposing Mr. Hupsman to be one, he addressed him as follows: ‘Mr. Hupsman—Now, as a man and a Mason, I should be glad if you will tell me whether Lord Berkeley is married to Miss Tudor, or Cole, or not?’ To which Hupsman replied,—‘Yes, as much as ever you was married to your wife.’—He then mentions his reason for asking, was, his having a small bill on your Ladyship, which he had never since from delicacy sent in; he then states his intimacy with Mrs. Routh, and her mentioning, at his house, in 1786, Mr. Hupsman’s acknowledgment to her, that Lord Berkeley was married to Miss Tudor; that, in the summer of 1786, it was the general topic of conversation at Gloucester, and the fact was generally believed there; that he heard it once mentioned in 1785, and, from the foregoing circumstances, he believed a marriage had taken place.”

No. VIII.

Referred to in page 64 of the Address,

DEAR MADAM,

I write to your Ladyship now, to say, that it was by mere accident I heard a few days ago of that embarrassing and indelicate question put to you by the Solicitor-General, respecting your sudden separation from Lord Berkeley after your marriage, when it rushed into my mind, that you once communicated to me the cause. This I believe happened in the course of my inquiries into past events, while I was attending your Ladyship on account of a severe indisposition, which took place after a miscarriage. It may be proper for me to mention what I allude to: it was the hæmorrhage. Though a rare occurrence, I was not unacquainted with it in the course of my professional career; and whenever it has happened, it has struck a young female with terror.

This morning I was honoured with a visit from my Lord Suffolk, to whom I made this communication, finding his Lordship your most zealous friend. There was another thing too, which occurred to me, which you said at the time Lord Dursley had the scarlet fever; but whether your Ladyship said it to me, or to some one who mentioned it to me, I cannot at this distant period recollect:—"Had that boy lived, what-

ever the world may think, he would have inherited his father's honours, his estates, his every thing." Was it said to my late sister, Mrs. Black ? or to Mrs. Hopkins, who, I believe, was sometimes with you as a kind of nurse ? That it was said I am certain. Mrs. Jenner has some recollection of my mentioning it to her. I should have told your Ladyship, that at the time you uttered this expression, you were agonized with grief, not supposing that Lord Dursley could recover.

Both these facts I have stated on paper, and consigned them to my Lord Suffolk, who has sent them to Sir Samuel Romilly.

I grieve to think how long and how unnecessarily this distressing business is procrastinated ; but I trust your Ladyship's health will be supported under it, and remain,

Dear Madam, with best wishes,
Your Ladyship's faithful
and obedient humble servant,

EDWARD JENNER.

Cheltenham, May 9th, 1811.

No. IX.

Referred to in page 71 of the Address.

It gives me pleasure, my dear Sir, to hear that we may expect Mrs. Westfaling, Mrs. Benfield, and yourself, at this old place ; but pray stay one week with us.

We cannot part with you before.—I really feel very much obliged to you for the kind interest you have taken for me, in writing to Mr. Fendal. I certainly went to Gloucester in the summer of 1785, for the purpose of removing my family from thence, for which Lord Berkeley was anxious, as well as to suppress the report of my marriage with him, which, at that time, was talked of. Indeed I believe my poor husband's *chief* motive in sending me there, was to make the report appear an impossibility. Mr. Fendal saw me there, but how, or where, at this moment, I have not the least recollection. My poor sister at that time knew not of my marriage, but thought Mr. Fendal would certainly marry me, and that my fortune was made for ever. She plagued me to death to receive him, and having no good reason which I could *tell her for not doing so*, I consented, and I believe Mr. Fendal drank tea at her house; but whether more than once, I cannot remember, nor can I tell what the letter was which I wrote to him, more than *I am sure*, my heart and mind under no circumstances, could dictate that which the strictest honour would not sanction. Mr. Fendal says, I stated to him I was ready to receive honourable proposals. I am sure I said no such thing: the letter was written, on my part, such as a virtuous young woman ought to write; and not thinking Mr. Fendal's intentions good, I looked upon it my letter would satisfy my sister, and put an end to Mr. Fendal's pursuit. The whole transaction had nothing of vice in it:

my person and character can never be impeached in any way ; and when my husband came to Gloucester, I saw him for a few moments at Mr. Parker's, where my brother then was, and he was pleased with it, because it would throw a veil over my concealed marriage. Alas ! my dear Sir, at that time little did I think I should ever hear of it again. I was at that time so young, and so pleased with my situation, that the secret delighted me, and I looked no farther ; nor did the subject ever enter my head, till a friend of mine mentioned to me, that Mr. Fendal had spoke of it. I am sorry Mr. Fendal spoke of it ; *not for my sake* ; yet I do assure you, though I can attach no blame to it under the circumstances I was at Gloucester, yet it has to my feelings something like error, and it calls a blush upon my cheek ; but as to its having any thing to do with the proof of my first marriage, or the evidence I shall produce in support of it, it is childish to think of it, and on that *head* I shall not trouble myself about it. Providence has supported me through ten thousand miseries, and on Him I shall continue to rely.

Remaining ever,

MARY BERKELEY.

Berkeley-Castle, Sept. 1810.

What you mentioned to me respecting Mr. Fendal, I shall write to him this day or to-morrow, and shall not fail to desire him to explain the matter to me. I am sure it is of no importance, or I would not have

delayed so long ; and I do feel the fullest conviction, that this important question will be determined, as I verily believe it ought to be, in the manner most satisfactory to you.

Mary begs to present her best compliments, and I remain

Your Ladyship's sincere friend and servant,

T. WESTFALING.

Rudhall, Sept. 26, 1810.

MY DEAR LADY BERKELEY,

So far from thinking you wrong for being very partial to your son, I should think you very wrong if you were not so, and it is the warmth of your affection which most strongly recommends you to me ; and believe me, though now unfortunately acting in opposition to Lord Berkeley, I am not the less willing to do justice to his merits.

One last word about the election :---You said Lord Berkeley was pleased with my frankness in the former election ; I trust I have in no way deviated from the same in the present. As to my having warmly espoused the cause of Sir W., as I have always professed myself his friend, I should have been unworthy the name of friend to any one, if I had not so done.

I have received an answer from Mr. Fendal, and his words are these : “ You will have the goodness to state to Lady Berkeley, that the person, whoever it was, that

reported my expressions to her, did it very correctly, and that I certainly did, and still do, deprecate the idea of being called to the bar of the House of Lords upon the subject you allude to, as I still cannot help thinking, that the contents of the letter she alludes to, and the circumstances that at that time passed between us, would have a considerable influence upon the minds of the Peers in the decision of the question. I think it fair and candid to add, that her Ladyship need be under no apprehension of being taken by surprise, should it be my misfortune to be compelled to attend, as I have nothing further to state than what she is already acquainted with."

Upon this I shall make no remark, except that I see no likelihood, or can conceive any, of Mr. Fendal being called upon; and that I deprecate his being so, and very particularly do I deprecate it on his own account. I deprecate it also for you, for the story could do no good, though I think it could, in no degree, materially affect the positive evidence you have to bring forward.

I remain, &c. &c.

MY DEAR SIR,

I am extremely unwell, and therefore I shall let the election pass till we meet, which will always give me pleasure. In the mean time, will you have the goodness to make my compliments to Mr. Fendal, and tell him, upon the *simple fact of my first marriage* I could *not be taken by surprise*, and that I believe he is

under a mistake respecting the situation I am placed in: I am the *guardian* of my eldest son, by my *second* marriage; *that marriage* places me in the situation of a common witness: I lose no rank by the issue, and it is my duty to lay before the House of Lords every thing that I know of, or that my Solicitor may think will tend to *prove* or *disprove* either marriage. This I shall thank you to communicate to Mr. Fendal as soon as possible, that he may send to me, if he will take the trouble, whatever he supposes he knows of the business. My time has been taken up the last week in collecting letters said to disprove the fact of my first marriage, and whatever I hear of I will carry myself into the House of Lords. My life has been checquered by ten thousand miseries; but while I know and feel I never did essentially wrong, I can have no fears for the event—God will protect me. Pray tell Mrs. Westfaling I shall rejoice to see her, yourself, and Mrs. Benfield.

I remain, your's, sincerely,

Berkeley-Castle.

MARY BERKELEY.

Edgeworth, Oct. 2, 1810.

MY DEAR LADY BERKELEY,

I have enclosed your letter in a cover, and directed it to Mr. Fendal, as the best mode of explaining your wishes. As you appear to notice the expression of taking you by surprise, which appears in his letter, I think it right to say that expression was

taken from my letter, in which I said to him that you felt fully assured that you could answer any objections that might be made, but still it would be more agreeable to be previously apprized of them than to have them brought forward unexpectedly, so as to take you by surprise on the moment.

Your letter on this subject is like yourself, and plainly flows from conscious rectitude; which same consciousness, united with strong feeling of the cruel situation your son was placed in, marked all the first letters you favoured me with, and have greatly interested me for you. I have, in my own mind, not the smallest doubt of the fact of your first marriage, nor do I doubt the decision of the House of Lords; it is not, therefore, on your account, but on account of Mr. Fendal, with whom I have been united in friendship from my boyish days, that I regret he should have placed himself in so strange a position. I have desired him to answer directly to you, or through me, as he thinks best.

Mary and Mrs. B. desire their compliments. Our visit to Berkeley-Castle, which, if convenient, will probably be towards the end of the month, will be most likely made from Easton-Gray; and perhaps you may not dislike to see our friends who live there, at the same time with us.

Believe me, dear Lady Berkeley,

Your sincere friend,

T. WESTFALING.

MY DEAR SIR,

I do not delay one post in returning you an answer to your letter, received this evening. I always rejoice when I see your hand-writing, for I love and honour you as one of my sincerest friends. You have done just what I wish, in sending to Mr. Fendal. I do not know any thing of him, but it rejoices me to hear he is a friend of your's, because he is, most likely, a gentleman and an honest man, and those are characters I have ever found ready to do justice to me. I have suffered severely; my life is a melancholy romance; the misfortunes heaped upon me caused from no errors of my own. *I cannot fear the event*, though I know my trial will be great, being unaccustomed to go much into public, and therefore the more likely to be frightened, though my cause is a good one. I shall be obliged to go to London the first day in November, and therefore come here as soon as you can this month. Remember me kindly to the Ladies,

And believe me ever your's sincerely,

Berkeley-Castle.

M. BERKELEY.

Wednesday Morn.

Alas! I laugh, and try to keep up my spirits, but every thing presses hard upon me; my mind, left to itself, would brood over the memory of a dear husband, but I am dragged into this contest. I am *told* I have great influence, and, as I am *not* a *Peer*, you will forgive me for using it. I thank you for thinking of

writing to Mr. Fendal, though 'tis of no consequence, till his return to Gloucester. I have not one fear for the event of my son's birthright. By my second marriage I am removed to the situation of a common witness. The question does not touch my rank in life. To the eldest son, by the second marriage, I am guardian, and, if I hear any thing which I think against my first marriage, I shall feel it my duty to carry it to the House of Lords. God's will be done.

I remain your's,

MARY BERKELEY.

Rudhall, Sunday Even.

The enclosed, my dear Lady Berkeley, my husband has just had returned from Fendal. Wish it had been sent with your others, but hope no inconvenience may have arisen from it. He wishes, as well as I do, that your health will not suffer by the sad harassing trial you are doomed to experience, and shall rejoice in a happy conclusion of it.

Excuse my hasty scrawl, but my husband is engaged, and desires I'll not fail sending off this by post immediately.

Accept again, my dear Lady Berkeley, our united good wishes, and believe me sincerely

Your obliged friend,

MARY WESTFALING.

No. X.

Referred to in page 77 of the Address.

Brighton, June 5, 1810.

MADAM,

52, East-street.

I had the honour of your Ladyship's letter this morning, and will afford you all the information that my memory will give me. As to the circumstance of your having waited on Mr. Bearcroft, in Duke-street, St. James's, in the year 1796, I needed not the many particulars you mention to recal to my mind the fact, as I have a perfect recollection of your figure and dress. When you first came Mr. Bearcroft was very ill in bed, and wished to have declined seeing you; but the earnestness of your manner interested me, and I prevailed with him to see you, which he did. I recollect that you quitted the house in tears, and that Mr. Bearcroft sent a letter from Brighton, directed for Miss T., at Mr. Prater's, linen-draper, Charing-cross. During the few months Mr. Bearcroft lived, after your Ladyship saw him, we often conversed on the subject of the unknown Lady, which fixed all I have related above most strongly in my memory. Your Ladyship informs me, that it is of importance to you to ascertain your having waited on Mr. Bearcroft at the time that circumstance took place: as a proof that I have a perfect recollection of the person of the Lady I saw at my house, in Duke-street, so many years since, I was strongly persuaded,

when I saw you at Brighton last summer, that you were the same. Your Ladyship needed not to have assured me, that my answering your question would not bring me into any difficulty. I am not apprehensive of speaking the truth of any fact of which I have the knowledge; and when called upon by those who may be concerned, I hold it my duty to do so.

I have the honour to be,

Your Ladyship's obedient servant,

CLARE ST. GEORGE BEARCROFT.

Countess Berkeley.

No. XI.

(PRIVATE.)

Referred to in page 103 of the Address.

Spring-Gardens, 1797.

MY DEAR MRS. PURNELL,

I have not known a moment of more pleasure than when Lord Berkeley presented me to you, and I look forward with much joy to meeting you in Gloucestershire, hoping again to thank you for your many, *many* acts of kindness to my children *for ten years past*. I know you will smile, when I tell you my heart sinks at being known by any other name than that of Tudor. Under that name in retirement nearly twelve years have I spent, and I trust with some credit as wife and mother; and, without more advantage than my own

conduct, I have secured some very valuable friends—friends with sense and virtue sufficient to distinguish, that honour is a first principle in the mind, not receiving more lustre from title; and with those friends I am satisfied, nor do I wish for more. I dread being known, and my domestic comforts broke in upon. I may become accustomed to fashionable people, and forget the great task of duty. My love to Purnell, and believe me, my dear Mrs. Purnell,

Your's sincerely,

M. BERKELEY.



(PRIVATE.)

MY DEAR SIR,

London, Oct. 11, 1797.

My *Lady* is not satisfied unless I write to you, to desire Mrs. Purnell not to make *her* situation so public, as to have all the world know it, before we have an inclination it should be so. Major Austin has wrote her a congratulatory epistle on the occasion, and she is afraid of being interrupted in her domestic enjoyments, before she has had her full swing of content. Her gratitude for the love Mrs. P. has always shewn to her children, and the known private friendship existing between you and me, made her unwilling it should be concealed from Mrs. P. any longer. A long while it has; and the trial she has undergone, when, instead of remaining quiet under a supposed obloquy, she might have triumphed over all, only strengthens

her virtues, and shews a mind superior to most women-kind. I hope to see you and Mrs. P. in the country soon; in the mean time I remain, with love to your better half,

Sincerely your's,

BERKELEY.

The following letter, written under impressions little favourable to the purpose of fraud, will, I think, shew that I referred to my first marriage as a circumstance which, from its consequences, entitled me to additional attention from my beloved Lord. It bears no date, but the water-mark in the paper is 1801; and it was saved from the flames by the intervention of two Noble Friends, who thought it might be of some consequence:—

MY LORD,

I set this down on paper, that you may keep it, and at some future time look *again* and *again* at the contents. You will now, I beg, look back and see what my conduct has been as wife and mother; and then recollect what I had a right to expect from you, after so long experience, having never in any one instance led you, or committed myself any error, where the property of my children was concerned; or run you into twenty pounds' expense which was not for the comfort, interest, or health, of you, or your children; or spent in any one year, on my own person,

more than your common steward costs you. I have been your steward long enough for you, and *every body* that knows me, to feel how capable I am of the situation I fill with such credit to myself; *and after the severe trial I have gone through, in establishing our first marriage, I had* reason to expect to have rested my head on you, and you only, and that your *cruel, harsh* manner would have been laid aside, or softened into affection; and from the long experience you have had of me, that you would never have taken any steps, or done any business, without consulting me as *your first, your only tried friend*—this I did expect. I am sorry, on my children's account, that your heart does not feel for me what it ought; for myself it matters little,—time will soon reconcile me to this or any thing which may happen. I will give up the thoughts of living in *your bosom, as has ever been my wish*; and still continue your steward as usual—*and mark me*, whenever it is your pleasure to remove me from that situation, I shall feel it the signal for my looking out for some other home, and look for it accordingly. In my situation, as steward, I have ten thousand pounds floating at this moment, without any assistance from any one but a young untried man, who only keeps the accounts, while I do the business.

Mr. Boodle, whose honesty, as far as he knew, we were sure of, no longer answerable for any thing; the future plan of the audit to be made by *me*, and *every* branch of the estate under my direction; *ten* workmen

the middle of next week waiting for me;—while I fill the situation, my Lord, nothing shall draw off my attention from the duties of it, or shall my children have reason to complain of their mother. And I feel I have not half an hour to spare, and am sorry I put it out of my power to go next Sunday: till Sunday week I am willing to remain for you, if it is your pleasure to remain at Cranford; after that time, I trust you will be amused. If I were to say my heart was not wounded by your conduct, I should not speak truth; indeed it is! Sleepless are, and have been, many of my nights. I have now one proposal to make to you, and I beg you will attend to it, because it will justify me in the eyes of Dursley, and a man whose opinion I am anxious to keep, Mr. Morgan. Set before me the business, which you have to do, before you go to Berkeley; and if I do not complete it before Sunday week, to the satisfaction of any one, I will allow you to blame me as much as you please. Convince my *reason* that you *must* stay at Cranford, and let me assist you through it while I remain; but allowing all this business, instead of being angry with me for fixing the time for going to Berkeley, surely I had a right to expect that you would have been pleased to see me taking the pains I do, to put your property into good condition. Why am I to be harshly used for doing my duty? Do I not well know, now Mr. Boodle remains in London, that whatever *trifle* is wrong, I shall be blamed for it?

Do not cast me from you, I pray, or refuse my request, in making me acquainted with the business you have to transact: do not throw away the affection of her that has loved you better than herself, which you will do if you refuse my request.

M. B.

(This I keep a copy of.)

THE END.

ERRATA.

PAGE

- 17. Inverted commas at, "*who that pretty girl was.*"
- 20. If not *of* (not *to*) the legal evidence.
- 30. For fellow *men*, read *man*.
- 50. For *necessary*, read *necessarily*.
- 51. The parenthesis ends at *parties*, not at *answered*.
- 59. To consider the *register*, read *registry*.
— For 1796, read 1786.
- 66. For *who* being the son of Lord B., read *whose*.
- 73. For return to *the* intercourse, read *my*.
- 84. For, apprised of the *circumstances*, read *circumstance*.
- 91. For *shew*, read *observe*.
- 108. Line 2, for *register*, read *registry*; at lines 12, 15,
and 16, the same.
- 109. For *register*, line 23, read *registry*.
- 118. For *Fac Simile*, read *Sketch*.
- 122. Line 2, after "to," insert "part of," the double
line, &c.
- 125. Line 1, for 1788 and 1789, read 1798 and 1799.

THE
S P E E C H
OF
HENRY EARL OF CARHAMPTON,
IN THE
Court of Chancery,
On SATURDAY, the 9th of DECEMBER, 1815,
UPON A MOTION TO VARY IN *TOTO* THE MINUTES OF AN ORDER,
MADE BY THE CHANCELLOR ON THE 15TH JULY LAST,
IN THE CAUSE OF
BYAM VERSUS LAWLEY,
AS BEING OBTAINED BY SURPRISE, AND BY A MISREPRESENTATION
OF FACTS,
COMPRISED IN A
SPEECH OF SIR SAMUEL ROMILLY
ON THAT DAY;
AS TAKEN IN SHORT HAND, AND REPORTED IN "THE OBSERVER"
OF THE 17TH OF JULY, AND ALSO IN THE VARIOUS
MORNING PAPERS.

"The Proceedings in Chancery have run to a length, and to an expense, contrary to the genius of this Court and to the spirit of the laws of this Country: they have become an ENORMOUS ABUSE, from the wanton and unnecessary charges inserted by practitioners."—*Speech of Lord Thurlow in the Court of Chancery, quoted in Burgess on Insolvency, page 159.*

LONDON:
PRINTED FOR HENRY COLEBURN.

Printed by B. Clarke, Well Street, London.

ADVERTISEMENT.

It was as far from my intention to print what I had said in the Court of Chancery on the 9th instant, as it originally had been to trouble myself or the public with any observations on what had previously passed there. On further consideration, I have consented to undergo the labour of arranging my Notes for the press, because, I am told, that it may be of use to others, to show what injuries may be inflicted on the peace, the purse, and the character, of an individual, *under the Forms of a Court of Justice*. The delay in the publication has arisen partly from my reluctance to make myself, or my affairs, the subject of a pamphlet; and, partly, from an aversion to labor, without much hope of doing good to myself or to others. If what I have said, and now publish, produces any observation, or inquiry, where *alone* the procrastination, expence, and chicane, of which I complained to the Chancellor, can be prevented, or remedied, I shall receive the only reward that I ever hoped for, and much more than I now expect.

I have added a few notes to explain some allusions, and hints, which otherwise might not be so intelligible to the public at large as they were to the Judge, and the audience, before whom they were originally delivered.

CARHAMPTON.

Bruton Street, December 28, 1815.

Since the above was written, it has been suggested to me, that a short note of what the Chancellor said, as well as of what passed generally in Court, on the 14th of

December, ought to be published; I have, therefore, extracted the proceedings of that day from the *Public Prints*, adding a few notes of my own, merely for the purpose of elucidation. At the end will be found an **Appendix**, consisting of the original papers, or extracts from them, to which I referred in the course of the Speech. The whole has been ready for the press some time; but having been prevented by indisposition from looking it over until now, I have not returned it to the Printer until this day.

January 13, 1816.

A
S P E E C H,

&c. &c.

MY LORD,

IT must appear great presumption in me, to come here, and present myself before you, in my own cause, and at my age.

I am well aware, that if this was often practised, the regular business of this Court would be strangely interfered with, and your Lordship grievously annoyed.

I am aware, too, of that hacknied saying, “ *He that pleads his own cause, has a fool for his client ;*” and I can assure your Lordship, that if by legal artifice I was made to suffer merely in a pecuniary point of view, I should probably be silent ; and, like the beaver, leave that behind me which the hunters coveted, abandon it to them, glad to escape at any price from their fangs, and from this Honorable Court of Equity.

I am not so careless of my character, however, as to suffer that to be torn in pieces quietly ; and

as the one cannot be got at without destroying the other, I am compelled to defend it here : the attack was made in this Court, where Sir Samuel Romilly imposed upon your Lordship a fictitious story for a true one, himself unconscious (I must suppose) that he was doing so.

KING James the First, your Lordship knows, was his own chancellor, and the keeper of his own conscience. Neither Somerset or Buckingham dared to remind him of the old adage,—“ One story is good until another is heard : ” HE never would hear more than one side, hearing the other always *puzzled* him so—that royal precedent has, I believe, not been followed since.

It happens sometimes in this Court, when eloquence on one side is encountered by equal eloquence on the other, substituting words for things, such a mist is raised as to render it difficult to distinguish right from wrong ; but when an humble, but indignant individual, like myself, ventures to take the step I am doing, he must stick to truth—unvarnished truth ; for was I foolish or audacious enough to swerve from it in the slightest degree, your Lordship would soon find me out, and treat me, in that case, as I should deserve to be treated : but, “ MAGNA EST VERITAS ET ” (I hope I may add) “ PREVALEBIT.”

Conscious of my own integrity, and with truth and justice on my side, I will venture, with my feeble voice and impaired faculties, to contend with Sir Samuel Romilly, who, if he had equal

truth and justice on his side, would, with his superior intellect, crush me to atoms.

This insidious attack was made upon me on the fifteenth of July last, when a motion was made by my Counsel (Mr. Leach) in the following words— but before I read them to your Lordship, it may be expected that I should shew by what authority I do so:—The matter was agitated here on the Saturday; the report of it was inserted the next day in “THE OBSERVER,” and was copied into the several Morning Papers, and into that belonging to the county where I reside; consequently, I found myself shewn up to the public as a man of odious intentions, and of unjustifiable conduct.

At first, knowing the facts attributed to me, according to that report, were entirely false, I suspected it had been composed and published by some persons whose interest it might be to abuse me; and I thought of treating it as a libel: for I conceived, that a person printing and publishing a FALSE story, to the injury of an individual, is guilty of a libel. I was advised to answer it through the newspapers:—that I rejected. It has been much the fashion of late to do so: it is a fashion I shall not follow.

But first I determined to see the publisher. I did see him, and asked him by what authority he published that report: he very candidly informed me, that he frequently employed a competent person to attend the Court on a Saturday particularly, to take down in short-hand the speeches of

Counsel, and the result, in any case, that he thought the public would pay attention to ; and that he had done so in this case. I therefore had now no doubt of its accuracy : if I had any, it would be removed by a paper furnished me by Miss Lawley's attorney, purporting to be your Lordship's decree, or rather *what he wished should be considered as such*. It tallies with Sir Samuel Romilly's speech, and re-echoes it as nearly as an address in Parliament does a speech from the Throne :

“ *Court of Chancery, Saturday, July 15, 1815.*

“ An application was made by Mr. Leach, praying that his Lordship would order a considerable sum of money belonging to the estate of the late Duchess of Cumberland to be paid out of Court for the use of Lord Carhampton : he observed that Lord Carhampton was the only individual who was a creditor upon the estate of the late Duchess of Cumberland, and therefore, a sum larger than was in the hands of the Court, having been reported due to Lord Carhampton, it was *matter of course*, that he should receive payment of his debt as far as the funds extended.”*

Mr. Leach might with truth have added,—‘ Leaving in the hands of Miss Lawley, *unaccounted for*, a *larger* sum than the sum in Court.’

* Lord Carhampton here asked Mr. Leach, whether what he had said had been correctly reported.—Mr. L. nodded assent.

Sir Samuel Romilly did not controvert the assertion, that Lord Carhampton was the *only* creditor, and that the money in Court would not go near to discharge the debt to him : “ but he had a tale to tell, a piteous tale,”—it was the hardest case in the world upon an amiable and unfortunate lady (as he was pleased to term her) ; and he hoped when your Lordship should have heard what persecution she had undergone, and the cruel treatment she had received from Lord Carhampton, he did not doubt but that your Lordship would dispose of the money in Court in a more equitable manner, (*or indeed in any manner*) rather than into the pocket of her persecutor, and obdurate creditor, Lord Carhampton.

I wonder Sir Samuel did not assert, which he might have done with some *appearance* of truth, “ that even Lord Carhampton himself ought to be well pleased with such a decision ; for it seems he complains, that he has been for nearly *seven* years kept in a manner upon the rack, all the while pelted with his own money. Now, this *coup de grace* will put him out of his pain at once : for if he recovers the blow, which, considering his great age, it is very unlikely he should do, why, when he finds the money, which he foolishly thought would be applied to the payment of his debt, otherwise disposed of, he will probably give up a hopeless pursuit, and let the amiable lady quietly keep possession of the money, which, for years, she has had great difficulty in keeping from his grasp.—

As to the American stock, standing in the name of the Duchess of Cumberland, which may now amount to a little more than three thousand pounds, that, I presume, he has long given over all hopes of getting at; when he retires from the contest, then the two amiable ladies, Miss Byam and Miss Lawley, will make it up; for though they started good friends, Lord Carhampton (who, by the by, is no party to the suit, but only allowed to stand by and see fair play) contrived to set them together by the ears, and the two ‘amiable’ attorneys, who at first were good friends and partners, but afterwards took separate sides, and *seemed* to be as much in earnest as their clients, putting puzzling interrogatories to each other, and other acts of hostility, they also will shake hands, agree, and be friends and partners as before.---Thus all parties may be made happy and content.”

Sir Samuel did not express all this consideration and good-will towards me; but he contented himself with adopting, for he could not have originated it, a fabricated story, *false in every respect*. He adorned it with his flowers of speech, vamped it, new puttied, painted, and varnished the imaginary CRAZY TALE, artfully contrived for the purpose of intercepting the regular course of justice; and, contradictory to an existing decree in this cause, dexterously avoiding all notice of it, and in furtherance of an audacious attempt of Miss Lawley’s agents to elude and crush it alto-

gether; a manœuvre of theirs, which, when I am permitted more fully to explain it to your Lordship, I trust they will be foiled in.

Permit me here to refresh Sir Samuel's memory with a repetition of *his* speech, reserving to myself, with your Lordship's permission, to revert to it again, in order to give an answer "*seriatim*" to the several facts and charges contained in it, stripped of its embellishments:

" Sir Samuel Romilly said, he hoped his Lordship would be far from considering this application a matter of course; in truth, it was one of the hardest cases in the world with respect to the very deserving lady who was the devisee and executrix of the late Duchess of Cumberland. It was one of the greatest misfortunes in the life of Miss Lawley, the lady to whom he alluded. that she should, by her amiable qualities, have gained the esteem and friendship of the late Duchess of Cumberland. The fact was, that in consequence of that regard, the Duchess had bequeathed to her nearly the whole of her property. It would have been a very considerable property, had it not been for a suit instituted by Lord Carhampton, to recover an instalment due upon an annuity granted (*but not* to him) by the late Duke of Cumberland. Unfortunately, owing to an error in pleading, *plene administravit*, the estate of the Duchess became not only liable to the instalment due, but to all the arrears of the annuity, amounting to nine or ten thousand pounds. Thus Miss Lawley, instead

of being possessed of an ample fortune by the death of her patroness, found herself involved in a tedious litigation, the expences of which she had to defray out of her own personal means. Among other objects of property belonging to the late Duchess, there were a number of very valuable jewels, which were deposited in Vienna. It had been deemed adviseable, with a view to the recovery of these diamonds, to send a gentleman of the name of Jones to Vienna. Mr. Jones, having performed the service imposed upon him by recovering the jewels, naturally made Miss Lawley his debtor for the amount of his trouble and expences. Now, as Lord Carhampton's demand would sweep away the whole of the estate of the Duchess of Cumberland, including the produce of the diamonds, the consequence would be, if the present application was complied with, and the money paid out of court, that Miss Lawley, without reaping the slightest benefit under the Duchess of Cumberland's will, would be answerable for Mr. Jones's demand, to the amount of several hundred pounds." The Lord Chancellor said, he thought it a very hard case upon Miss Lawley; he would, however, so far take care of her interest, that he would not suffer the money to go out of Court, unless Lord Carhampton indemnified her against the claim of Mr. Jones, and other claims to which she might on the same grounds be liable.

My Counsel, Mr. Leach, was taken by surprise; and well he might; for I should have as soon thought

of instructing him to defend me against a possible charge of murder, as against a string of accusations, comprised in a sentimental story, supported by no evidence, set forth in no pleadings, and new to him altogether. If he believed the story to be true, (and coming from Sir Samuel, how could he disbelieve it?—how could your Lordship disbelieve it coming from Sir Samuel?) what must he have thought of me, his client? He must have thought I had deceived him from the beginning; that I was as litigious and as unprincipled a man as ever existed, unworthy of admission into the honourable classes of society; in short, a good-for-nothing fellow, unworthy of being defended by him—and your Lordship must have thought the same.

But, if Sir Samuel should find out, that he has been imposed upon, and made the instrument of propagating a story, which those who furnished him with it knew at the time was altogether *false*, what must he think of his client and her advisers? Find it out he must; for if I don't shew him, to his own conviction, that the facts, the raw material (if I may call it so) out of which he had to compose his stuff, was rotten; his very epithets false, and his flummery (I beg pardon, I should have said panegyric) upon his client, misapplied, I have already said too much.

Sir Samuel undertook to give a rapid analysis of my *seven years war* (if I may term it so), com-

prised it in a small compass, and, by bringing forward facts, no matter whether true or false, which made for his client, and suppressing others which made against her, never losing sight of that figure in rhetoric, termed a "*translatio criminis*," attributing to your antagonist acts which you are guilty of yourself, it is not very difficult to effect such a purpose.

However, I am obliged to Sir Samuel for having taken this short cut; because I trust your Lordship will suffer me to lay before you, in like manner, my *exposé* of the circumstances of this curious suit: and, although it cannot be expected that I should be able to compress it in so small a compass, or treat it in so scientific a manner, as learned gentlemen are in the habit of doing; yet, as it is your Lordship's object to get at the truth by any means, and not to suffer misrepresentation to have any share in deciding upon right and justice, I hope you will allow me to elucidate this case in the best manner I can, though in doing so, I should be somewhat prolix; especially, as at the same time I am justifying myself to the public, before whom I have been so undeservedly calumniated. It was only last week, in the Court of King's Bench, that the *Duke of Sorrentino* came expressly from abroad to vindicate his character from the false aspersions, by mistake, thrown upon it by Lord Blaney in his book: it cost Lord Blaney but a few sentences to vilify the Duke; but it was

necessary for the Duke to go into the whole history of his life, before the Court, to do away the calumnies.

In order that your Lordship may the better comprehend the whole of the subject matter, permit me to introduce to your notice two of the boldest practitioners in this Honorable Court—MESSRS. ADLINGTON AND GREGORY, partners, or Mister Adlington, and Mister Gregory, for they sometimes *hunt in couples*, and sometimes pursue their game separately.

I have heard of a company of strolling players,* who enacted the play of *Hamlet*, leaving out the part of *Hamlet*; but the play was marred by it. In this melo-drama, these gentlemen are the principal, indeed the sole performers, and sustain both the characters of plaintiff and defendant; in short, both, and all sides.

Listen, gentlemen, I am going to make your fortune; for if there is a debtor in the kingdom, who wishes not to pay his debts, he has only to employ—you, I won't say—but *proper* persons as his agents.—

I have read a quack doctor's advertisement—
“Take *my* pills, and you are a fool if you die.”

“Follow my recipe,” says a skilful practitioner,
“and you are a fool if you pay your debts.” “Take

* An anecdote told by St. Evremond, in one of his letters to Ninon de L'Enclos, one hundred years ago.

this pill—'tis a bitter one: your creditor must swallow it, and he won't trouble you long."

My Lord, you are ignorant of the tricks which can be played behind your back, and all within the established rules of proceeding, at the Master's Chambers, in spite of the conscientious and upright intentions of the Master, to which I can bear testimony.

To develop to your Lordship, what skilful practitioners will undertake, and can accomplish, you will perhaps be shocked to hear: it is thus exemplified, and not exaggerated:—Suppose a debtor applies to one of these gentlemen of this description, and states his case as follows:—"A friend of mine has left me, by will, the whole of his fortune in this country, except a trifling legacy or two; but my friend unfortunately forgot a judgment debt on record here against him, and the creditor has commenced a suit at law, against me, the sole executor."

"Will you, Sir, undertake to protect me against this debt?"—"Most certainly, Sir."—"How?" "You say there are some small legacies left to *somebody*: we will file a bill in some one of those persons' names against yourself; they won't object, as you may tell them that my partner and I will manage the business—and you will (in the first instance at least) be at the expence—in *nine days* I will get a decree, and stop your creditor's proceedings at law, before he knows any thing of the matter—the decree will, of course, direct the debts to be paid, and an account

to be taken before a Master—when I get him into the Master's office, 'tis our fault if he finds his way out of it in seven years. How old is your creditor?' 'About the age of the King.' 'Ridiculous! I'll tell you what I will undertake to do with him. He won't like being dragged, in spite of his teeth, into the Court of Chancery in the first instance: he will like it less before I have done with him. The suit instituted is between your friend, the legatee, and you. Your creditor is no party to our suit: he may look on if he will, while I, your solicitor, and my partner, acting for the legatee, will play our game. To *any* report the Master makes we will take "Exceptions," by turns—I, in your name; my partner, in the name of your legatee. No matter whether we succeed or not. You, as executor, pay no costs: and our object is to gain time, and tire him out with "demurrers,"* "exceptions," "notices," "non-attendances," "client in the country, expected in town," "sham interrogatories." Between my partner and me, we will so baffle and torment him (all within the regular rules of proceeding) that unless his brains are better balanced than usual, we will drive him distracted, and so make a lunatic of him—and then the Chancellor will take cognizance of him, in *that* capacity. If he is in any way engaged in trade, we will make a bankrupt of him: there the Chancellor will have him again; at

* Which, according to my unde^rstanding of law terms, is literally DEMEUREZ LA.

any rate, we will render him insolvent, before he has any chance of recovering your debt. We have also another game to play, which will, I think, embarrass him completely. Your friend, who died abroad, had valuable articles of jewellery bequeathed in specific legacies—some pearls to *you*. In the will, I see a German lady of quality, a friend of the testator, was the person confided in to collect the property abroad,* and remit it to you. Supersede that part of the will directly: find out somebody that likes to travel, even in an enemy's country: give him unlimited credit: never mind whether he succeeds or not: the Master cannot finish his report until he returns—when he does come, *his* claims must be investigated. In the meantime we will apply to the Court, for large sums of money, to be paid out to us for the expences of this ambassador, out of that which your creditor got lodged in it, for the purpose of paying his debt, or part of it. We must give security, indeed, that if this expenditure should not be sanctioned by the Master, it must be refunded. To prove that there is no danger of *that*, I myself will stand security.

In the meantime, the interest of your friend's estate will go to increase your capital, while the debt you are liable to, will (I hope) bear no interest at all (let it last as long as it may), and, at all

* See extract from the Duchess of Cumberland's will, Appendix A; where she specially appoints the Baroness De Buchman for this duty.

events, only a low interest, while you may be receiving a high one.

But our last manœuvre will be the most masterly. After your creditor has been expecting, for nearly *seven* years, that sometime or other the Master's final report must be forthcoming; and when we can play off the Master no longer, my partner and I may "entertain doubts" which of us should file the report; for your creditor not being a party in the cause, can have nothing to do with it. We can keep it snug, and inoperative, for a year at least: probably, your creditor may make a motion to get some of the money out of Court: that will furnish a pretext for our Counsel to tell a plausible story of our invention, in which, we will give you an excellent character, and our opponent a very bad one. This story shall have no reference *to the decree obtained above six years before*, but shall be spick and span new. The Chancellor will never suspect the trick: the money in Court, will, we hope, be immediately applied to pay my partner and me, as *separate agents*, for the parties in the suit, and a further sum will be embargoed to enable you to pay any bill your ambassador can make out---the rest ("if any") to be paid to you. We will take care to put in those words to guide the Master in his report (for it will be referred to the same Master), who has already furnished his report upon *all* those matters referred to him, near *seven* years ago.

How the Master will be surprised, when he is ordered to report what is due to Miss Lawley, and

not *from* her, as formerly directed, and to obey the latter decree in contradiction to the former one ! No matter for that. *I* shall have done my work, and been well paid for my trouble and ingenuity ; you will have increased your capital, and I believe your creditor, should he be alive and sane, will hardly chuse to begin the suit all over again.

This is not bragging, nor undertaking more than they could perform : the odds were in their favour, that they would accomplish all this, as I can show, when I describe the regular course of proceeding in this extraordinary case.

If their system of proceeding shall be crowned with success, it is not too much to say, that the effect will be, that this Honorable Court, instead of being, as it ought to be, looked up to with a reverence due to the tribunals and transactions of justice, it will be exposed to derision and disregard.

My Lord, these bold practitioners may boast, that the character of this Court, for promptitude of decision, or for procrastination (amounting to a denial of justice) depends upon them—they can make equity travel full speed, or impede, pervert, and entangle it so, as to stop its course altogether.

The proceedings in the cause of Byam and Lawley will exemplify this.

In order to stop my proceedings at law against Miss Lawley, Messrs. Shepherd and Adlington filed a bill in the *name* of Miss Byam, a legatee of the late Duchess of Cumberland, for two hundred pounds.

The bill was filed on the sixth day of November, 1809,—the answer was put in by Messrs. Shepherd and Adlington on the ninth day of November, 1809, and the decree obtained before the Master of the Rolls on the fifteenth day of November, 1809.

People complain of delay in the Court of Chancery. Can any body say, after this, that when parties are in *earnest* to do business, it cannot be done quickly?

It may be said, this was an AMICABLE BILL. I have been informed, that in an amicable suit, the same attorneys might act for both parties, the object being to obtain your Lordship's judgment, and opinion, for the purpose of protecting parties acting under it.

Now, my Lord, let us see how far the case of "*Byam and Lawley*" was of this description—it might indeed be deemed so in one sense, but in no other—that all parties were agreed in a *friendly league*, to exclude a fair creditor from obtaining payment of his debt; to draw as much costs as possible from the estate; for Miss Lawley, with a thorough knowledge of my demand, instituted proceedings against herself, through the medium of her two solicitors, in behalf of a legatee of two hundred pounds.*

* I had reason to suspect this to be the real state of the business when I addressed the Court; but the confirmation of my suspicions from *Miss Byam herself*, was not obtained till the 28th of December, when I saw her for the first time.

With what face either of these attorneys could call upon Miss Lawley to answer ON OATH (unless the suit was *so amicable* that this form was omitted, and Miss Lawley was not sworn), denying all “ combination and confederacy,” I cannot con-

She informed me that more than six years ago, Miss Lawley, accompanied by another lady, waited upon her, and asked her permission to use her name in a matter relative to the late Duchess of Cumberland's estate. Miss Byam, then a very young lady, made no objection, on being assured that it was mere matter of form, and not at all aware that a bill was to be filed in her name : this is all she recollects of the transaction. From that time to this, Miss Byam was kept in profound ignorance of the various proceedings, and made, unconsciously on her part, to appear as an abettor of this ingenious scheme against me : for had no bill been filed, there was in 1809 enough to pay my debt, and Miss Byam's legacy of two hundred pounds ; whereas, now, through the effect of the embassy to Vienna, and of Messrs. Adlington and Gregory's strenuous defence of their client against the verdict, not a single shilling will remain to pay any legacy, or indeed any thing else, except a part of my debt.

I learned on that day, only (the 28th of December) that Mrs. Stephens, the mother of Miss Lawley, is alive ; and I then saw her in the very house she was residing in when Miss Lawley called there on her daughter. Why Miss Lawley applied to Miss Byam, then very young, and not on Mrs. Stephens, is best known to herself.

Never having heard any thing about Mrs. Stephens, I concluded she was dead, and that the legacy of two hundred pounds to her had lapsed.

It now appears, that Miss Byam has been made an involuntary instrument in the hands of Miss Lawley, to deprive her mother of her legacy, as well as herself.

jecture ; unless habit has rendered those words, in an answer, as much a matter of form, as the charge of “ combining and confederating ” is in a bill.

And having, in the rapid manner I have described, obtained a decree, the two attorneys *separate* : Mr. Adlington takes part with Miss Lawley, Mr. Gregory with Miss Byam, and carry on this *sham* suit, in the most barefaced manner, putting puzzling interrogatories *to each other*, as gravely, as if they were in earnest, and as if both the interrogatories and the answers to them were not prepared in one and the same office, and perhaps by one and the same hand. And when they could no longer prevent the Master from making a report, in conformity with the decree obtained nearly seven years ago, they audaciously endeavour to suppress it. And though they have the Master’s ultimate decision upon every matter, in the suit referred to him, in their possession above a twelvemonth, so determined were they that this report should never be acted upon, or come before your Lordship in the regular course of hearing, that they resorted to this very ingenious scheme—they instructed Sir Samuel to watch an opportunity of bringing forward a fabrication of their own, a fabrication of facts, purporting to be a *compendium* of all the proceedings, in order to excite your Lordship’s sensibility, and so surprise your Lordship into a decree founded on it ; in fact, superseding the report altogether, and rendering it of no avail : and after a seven years attendance, as an humble passive spectator of this disgusting scene, not being

a party to the cause, (as I am told) all is to go for nothing—your Lordship's recent decree supersedes the one I have with patience been expecting the execution of, and all is to begin anew. What a mockery!—In China, I am told, they hunt hares in waggons, but come up to them at last, though a long time about it.* A suit in equity has *no* end : and, to add insult to this injury, an opportunity was unceasingly watched for to give this death-blow, as it was meant to be ; and I am treated as a culprit, because, finding that there was no intention of filing the Master's report, and to urge Miss Lawley's agents to do it, my Counsel advised me to make a motion to obtain part payment at least of a debt so long withheld ; for presuming to do which, I am to be severely punished and vilified. Before I proceed to reply to Sir Samuel's several charges, may I presume to trespass a little longer on your Lordship's patience, while I account for my conduct in the whole of this transaction, and do away the impression, which the statement of Sir Samuel must necessarily have made.

A friend of mine was at my house in the country, when I first read the statement in the newspapers of the proceedings on the fifteenth of July : he is a person conversant in law proceedings, and on whose judgment I have great reliance.

Having assured him that the whole statement was a fictitious one, I asked his advice.

He said, however unwilling he knew me to be

* See Du Halde's *China*.

to take a conspicuous part, at my advanced time of life, yet he could not advise me to submit to be plundered and defamed in the last stage of it ;— that it was usual enough for an adversary to destroy the character of a man whom he meant to oppress ; but if I was sure that all that was advanced by Sir Samuel, was not only false, but that I could clearly demonstrate that it was so, in the very court where the charges were preferred, it was a duty I owed to the Chancellor, to the public, as well as to myself, boldly to assert my rectitude of conduct, however it might shake my nerves to attempt it ; that my task, he acknowledged, was an arduous one ; that it was one of those injuries which it was difficult to obtain redress for. “ If you continue silent under such abasing circumstances, it will be readily conjectured you think yourself to have received the treatment you were justly entitled to ; and if you spiritedly assert your defence, many will not hesitate to attribute that to presumption and effrontery, which is the honourable and legitimate issue of honest indignation.” Finally, my friend observed, “ that it was absurd in me to blame Sir Samuel Romilly for having used the materials with which he was furnished by his client, or her agents—I must not suppose that it is usual for Counsel to be acquainted with the “ life, character, and behaviour,” (to make use of ballad language) of their clients : they make the best of the case, as represented to them ; if they deceived their Counsel, it is as foolish as to deceive their

physician.—Let them look to the consequences—It is fair enough of the Counsel to give their client a good character, and their adversaries a bad one, to interest the judge in their favour. But if you will have my opinion on the speech you have been reading, it is evidently taken from a novel;* “*Mutato nomine, de te fabula narratur,*” and in the true sentimental style—an amiable damsel, oppressed by a ferocious monster, and THE KNIGHT extricating her from his gripe. Part of his painting is evidently taken from a story book we have all read, “The History of Little Red Riding Hood,”—*you*, the WOLF, going to swallow her, the amiable creature, diamonds and all—though it is evident to me, that, with the help of the KNIGHT, she will try to swallow the WOLF.”

I told my friend, however, that this was no joking matter; and that unless I removed the impression which had been made by the advantageous character given of Miss Lawley, and, of course, the disadvantageous one given of me, and the implied one of the Duchess’s sister and brother (Lady Lucy Moriarty and the Honorable John Olmius), my statement of facts might not be favourably interpreted; and therefore I thought myself warranted in shewing characters in their proper light. To this my friend assented, remarking, “that they who say things they should not say,

* By the bye, I have been told that Sir Samuel is a great novel reader.

must expect to hear things, they do not wish to hear."

Sir Samuel said, "it was the greatest misfortune in the life of Miss Lawley that she became acquainted with the Duchess of Cumberland." Now I say it was the greatest misfortune in the life of the Duchess of Cumberland, that *she* should have ever become acquainted with *Miss Lawley*, who had art enough to gain an entire controul over her; and when the Duchess went abroad, having first secured all her property from her creditors, in which she was assisted by Miss Lawley, that lady accompanied her, and returned after a lapse of some years. The Duchess again went to the continent, having remained in England but a short time. Miss Lawley, though requested, refused to accompany her; but prevailed on the Duchess to leave in England a will in *her* favour, to the exclusion of a brother and sister, and their children, although she was then on good terms with that brother, Mr. Olmius, and with that sister, Lady Lucy Moriarty, to whom, for nineteen years (to the time of the Duchess's death), she had regularly paid an allowance of one hundred pounds a-year.

The Duchess died abroad, surrounded by strangers and foreigners, leaving a will executed a year before her death, similar to the one she had deposited in England, in the custody of Miss Lawley.

Miss Lawley being left sole executrix, pro-

ceeded to act under this will, and unfortunately for her, the judgment debt remained unsatisfied, as she well knew, before she took out administration. She was reminded of this debt, and advised to take her measures accordingly ; instead of which, she took out a probate, for which she paid the tax for £ 7,500, money in this country.

That judgment debt was in the possession of the assignees of Martindale, a bankrupt. As Miss Lawley would take no step to accommodate matters with them, I entered into a negotiation with them, for that purpose—and have reason to think I should have agreed with them for a moderate sum, if Miss Lawley had delayed for a few days longer proving the will : but when they saw the will, and that they might be pretty sure of the money that came to her hands, they alleged, that they could not with safety to themselves take *much* less than *that* sum, without noticing the property abroad ; and ignorant of the Duchess's being possessed of ten American bank shares, standing in her own name, they stated, that what I proposed to give, £ 7000, would only amount to the principal advanced for the annuity, and five per cent. interest, since the the Duke of Cumberland's death---that the principal and arrears of the annuity amounted to £ 10,000---I accordingly paid them £ 7,000 for the debt, but without the smallest intention of benefiting by it. I own, I thought it was more creditable to the memory of the Duke and Duchess, and of Mr. Temple Luttrell, who had joined in the bond,

that a fair debt should be discharged, than that a stranger should succeed in defrauding the creditor of it---but I had another motive. I had no conception that Miss Lawley's advisers would persuade her not to accept an offer of getting rid of £ 10,000 for £ 7000, and for terms which I thought I had a right to insist on; namely, not to deprive the Duchess's sister, Lady Lucy Moriarty, of £ 100 a-year, which the Duchess had assured her she might rely on for her life. If Miss Lawley had acceded to this plan, which it was both wise and honest for her to have done, her situation would have been this, as stated herself before the Master, soon after she had proved the will; viz. £ 6,800 in Messrs. Drummond's hands,---4,500 dollars (paying regularly into Messrs. Drummond's an interest of six per cent.) their value at that time £ 1,200, making together about £ 8000: deduct expences of probate, £ 100, remains £ 7,900.

After paying the bond debt of £ 7000, instead of £ 10,000, there would have remained an overplus of £ 900, out of which she might have paid the two legacies of £ 200 to Miss Byam, and £ 50 to an old servant: there would then have remained to Miss Lawley £ 650 in money---but then I required that Lady Lucy Moriarty should not be deprived of her allowance of £ 100 a-year (she outlived the Duchess four years), which annuity, after I had purchased the judgment debt, I thought myself bound to pay---still there would be a redundancy---for Miss Lawley, besides the sums before stated,

possessed ten bank shares in the American funds, standing in the name of the Duchess at the time of her death, worth above £ 1,200 (*now* worth above £ 1,500) besides pearls, and other things left to her abroad---so that she must have, acting fairly and honestly, a sum of not less than £ 1,450.

But, upon mere pecuniary considerations, she might have been advised to follow another course, not quite so honest, but more beneficial; for by keeping the judgment creditor out of his money, what by compound interest in the funds here, and six and eight per cent. in America, she has added £ 3000 to her capital, therefore instead of £ 9,800, which she possessed herself of, she at this moment does, or ought to possess, about £ 13,000, unless she has wasted it.

If she accepted my offer (even after the death of Lady Lucy Moriarty) of £ 7,000, simple interest upon that sum since I had paid it, and my costs, it would not equal, at the end of six years, the amount of the judgment debt and costs, £ 9,750; she would thus still have an overplus of about £ 3,000, out of which I should expect to be paid £ 400, which I had advanced to my sister Lady Lucy, and of which Miss Lawley did not scruple to deprive her, though she was in affluent circumstances, and Lady Lucy in very confined ones.

If I have entered more at large than I ought to have done into this private history, it became indispensable for me to do so, in order to efface the false impression which the statement of Sir Samuel

must have made on your Lordship, and the public; —for to submit to be crushed and vilified by Sir Samuel, because of the “good qualities” and “amiableness” of the lady, as stated by him, is too much to be expected of me. Sir Samuel is universally esteemed an amiable man. Messrs. Adlington and Gregory are amiable men too: the Duchess’s sister and brother were very *unamiable*, otherwise they would not have been laid aside for Miss Lawley. But I believe Lady Lucy Moriarty might have disputed the point with her, at least in two particulars;—*honesty, and a regard for truth*. Be that as it may, I trust your Lordship will not give credence to a story taken from a novel, in preference to mine, which is founded on truth.

Permit me now to refresh Sir Samuel Romilly’s memory, by reverting to his speech, in order that I may refute the several charges against me, contained in it.

FIRST CHARGE.

Sir Samuel states the facts to be “that the Duchess had bequeathed to her (Miss Lawley) nearly the whole of her property, which would have been of considerable value, had it not been for a suit instituted by Lord Carhampton, to recover an instalment due upon an annuity granted by the late Duke of Cumberland; but unfortunately by an error in pleading, *pleno administravit*, the estate of the Duchess became not only liable to

the instalment, but to all the arrears of the annuity, amounting to nine or ten thousand pounds ”*

As if the assignees of Martindale would not have sued her for the *whole* of the debt, which from their situation as trustees for the benefit of other creditors, they could not have compromised with Miss Lawley for seven thousand pound, which I offered to do. No suit was ever *instituted* for the recovery of any one instalment: the suit was originally brought against the Duchess, as the Duke’s executrix, for the recovery of the *whole* amount, to which she was liable under the bond.

With regard to the mistake which Sir Samuel alleges was made, it was committed by Mr. (now Lord) Erskine, and the late Mr. Lowten, the Duchess’s counsellor and solicitor, two persons not very likely to make a mistake of this sort; but in fact there was *no* mistake.

Nothing of the kind happened: there was *no error*; but as this is the *third* time Sir Samuel has stated it so in this Court, and as Miss Lawley’s solicitors in this cause seem determined not to undeceive him, I will.

In the year 1775, the late Duchess of Cumberland persuaded the Duke, her husband, to raise a sum of four thousand eight hundred pounds, by way of annuity, on the life of Mr. Temple Luttrell, who was joined in the bond with the Duke, and

* Vide Sir Samuel Romilly’s Speech, on the fifteenth of July, 1815.

which was expended in certain electioneering pursuits.

The Duke regularly paid the annuity (eight hundred pounds per annum) until the last quarter preceding his death. The Duke, by his will, directed his *just debts* to be paid, and then left the whole of his effects to the Duchess, whom he appointed sole executrix.

As the Duke had ample means, it might be wondered at, that he never paid off the annuity ; but he probably thought Mr. Temple Luttrell's life a worse one than his own, and which it certainly appeared to be, although the event shewed that he was mistaken.

When the person entitled to the annuity applied to the Duchess for payment of the arrears due at the Duke's death, she took no notice of the application. Many letters were written to her, and at length, finding there was no chance of ever obtaining what was then or might become due of the annuity, as he was advised, he did sue the Duchess, as the Duke's executrix, upon the *penalty* of the bond, and *not* (as Sir Samuel has so often asserted) for the *gale* of the annuity due: she resisted the demand, and put in several pleas ; viz. " the general issue," "*non est factum*," "*plene administravit*," and that the memorial of the grant of the annuity was defective.

The plaintiff in the action, to the plea of *non est factum*, produced at the trial Mr. Moses Fernandes, the surviving witness to the execution of the bond :

he proved the Duke's hand writing, and that the money, four thousand eight hundred pounds, was paid in bank notes, *to the Duke in person*, in the presence of Mr. Temple Luttrell.

The plaintiff was likewise prepared to shew, by several witnesses who attended, that indeed it was a *mistake* (in point of truth at least) to say that she had *fully administered* ; for if they had been called upon, they would have proved, that money and effects to the amount of thirty-one thousand pounds, and upwards, had come to her hands – but when they had given evidence that she had received more than the penalty of the bond (viz. nine thousand six hundred pounds) her counsel and attorney, *very judiciously*, objected to the plaintiff's going into further evidence, and submitted to a verdict, for fear of shewing, to other creditors of the Duke, in case there were any, that there was a *large fund* remaining in the Duchess's hands, applicable to the payment of their demands.

I might stop here, and ask Sir Samuel whether this was a *just debt*, which ought upon every principle of law, equity, and honour, to be paid ; and why, for the *third* time, he has stood forward to insinuate, that had it not been for a *mistake* that the Duchess could, and ought to have avoided paying it ; would Sir Samuel have advised a client to resort to such a dishonest shift ?

A writ of error was brought by the Duchess : it gave time for her to put the tangible effects out of the reach of an execution, and among other

schemes, one was to secure the lease of Cumberland House from being subject to it; and Sir Robert Lawley, Miss Lawley's brother (not unknown to her it is to be presumed), became a confidential trustee for the Duchess—a bill for a discovery was filed against him, and the scheme was thereby disclosed, and defeated, as it ought to be.

I could enlarge upon *other* practices, to which Miss Lawley was privy; but I have more respect for the memory of a sister than the lady has for that of a friend, and who, by her conduct, has at length compelled me to disclose those disgraceful proceedings, having, on former occasions, when pressed upon by Sir Samuel with these same arguments, avoided making mention of them; but, urged for the *third* time, I must state them in my own defence.

The Duchess having brought a writ of error, the plaintiff at last obtained the ultimate decision of the Court of Exchequer Chamber, but could find nothing to levy his execution upon: although he would not have been permitted to take out execution for more than the arrears then due (about two thousand six hundred pounds) and his costs, the judgment would have stood as a security for future payments of the annuity—it now appears they were right in so doing.

The Duchess died in 1808, having first made her will, and appointed Miss Lawley executrix, who proved the will on the eighteenth of April, 1809.

The annuity had been the property of several persons ; but at the death of the Duchess, it was vested in the assignees of Mr. Martindale, a bankrupt, from whom I purchased it for seven thousand pounds. The judgment obtained against the Duchess was for nine thousand six hundred pounds debt, and two sums of ninety-seven pounds ten shillings, and fifty pounds costs.

At the time I purchased, the debt and arrears amounted to ten thousand pounds. Miss Lawley might have had it of me upon the same terms that I had obtained it, provided she would have continued to pay Lady Lucy Moriarty (the Duchess's sister) an annuity of a hundred pounds per annum, which the Duchess allowed her, and which, the Duchess assured Lady Lucy, she should have as long as she (Lady Lucy) lived. Lady Lucy survived the Duchess about four years, and would not have received a single shilling of her annuity, had not I paid it, from the time of the Duchess's death. Had Miss Lawley paid the annuity to Lady Lucy, it would have been but four hundred pounds in the whole ; which sum, being added to the seven thousand pounds, for which she might have purchased the judgment against the Duchess, she would not have paid altogether more than seven thousand four hundred pounds ; a sum far short of that she became possessed of by the death of the Duchess ; as at the time of the Duchess's decease, she had about six thousand eight hundred pounds in the hands of Messrs.

Drummonds, her bankers ; she had also four thousand five hundred dollars, American six per cent. deferred stock, and ten shares American bank stock ; which latter sum, with the interest due thereon, was worth about fifteen hundred pounds sterling, making altogether about nine thousand five hundred pounds.

Permit me here to observe upon a recent proceeding.

At the Duchess's death, Miss Lawley possessed herself of American stock amounting to four thousand five hundred dollars ; the interest of which was regularly paid into Drummond's bank, to the time of her decease ; and which was afterwards paid in like manner to Miss Lawley. Upon my intimating that I would make application to have it sold, I was informed that certain documents, which it would be necessary to produce in case of sale, were unfortunately lost or mislaid ; and that it would be proper that Miss Lawley should send over an affidavit to America, to enable her to sell these dollars. .

The interest, in the mean time, accumulated in America, and she took no step whatever to get the papers over.

There were likewise ten shares of American bank stock standing in the Duchess's name in America ; it might then, with the arrears, be worth twelve hundred pounds. There she let it remain, at high interest. Finding that Miss Lawley had no intention of bringing this to

account, I applied to the Court on the fourth of April last, and an order of reference was made to the Master, as to what steps should be taken to sell those American securities: but it was part of the order that this was to be at *my expense*. I could not get Messrs. Adlington and Gregory to stir until the twenty-second of June—they not attending—and Miss Lawley was in the country. It was then proposed by Miss Lawley's attorneys that Messrs. Warner and Co. should have the management of the sale of the American dollars, and that Messrs. Le Ray and Co. should have that of the American bank stock. Very well—as you please. These gentlemen assured me that Miss Lawley would make the required affidavit, and send over the necessary documents. After a month, when I thought the papers had been sent, I was informed they had altered their minds; that Messrs. Warner and Co. were not to be employed; but Messrs. Le Ray and Co. only should be employed to dispose of both. Very well—as you please again.

The broker has informed me, however, that the papers were not prepared, or sent over, until November last.

All this is easy to be accounted for: the order obtained was on condition that *I* was to be at the expense of this proceeding. Of course it was mere pastime to these attorneys to put me to all the expense and trouble possible. In the mean time, the interest in **America** was accumulating

for the benefit of Miss Lawley; and I thought myself well off that they did not send another Mr. Jones to America, for which, there would have been better pretence to send him at my expense, than to Vienna.

Finding that I was not likely to come to any terms with Miss Lawley, I determined to enforce my claim to the debt I had purchased; and in Michaelmas term, 1809, I caused an application to be made to the Court of King's Bench, in the name of Mr. Praed, the personal representative of the plaintiff in the original action, for leave to sue out a writ of *sci. fa.* to revive the judgment. A writ of *sci. fa.* was afterwards issued, to which Miss Lawley appeared; and, in order to stay those proceedings, she prevailed upon the plaintiff in this suit (a legatee for two hundred pounds in the Duchess's will) to file a bill, for the due administration of the Duchess's assets. Miss Lawley was so quick in her proceedings, that, on the sixth of November, 1809, the bill was filed; the answer put in on the ninth; and a decree made on the fifteenth. The SAME solicitors were concerned FOR BOTH PARTIES; and, on the first day of Hillary Term following, Miss Lawley obtained an injunction to stay my proceedings at law. The service of the injunction was the first intimation I received that a bill was filed.

It was part of the order for the injunction, that the person interested in the judgment debt should be at liberty to go in before the Master, to prove the debt for which the *sci. fa.* had issued. A

claim, in the name of Mr. Praed (as I thought it would be necessary, and most advisable to continue the proceedings in his name) was carried in, for the nine thousand six hundred pounds, and the amount of the costs.

Many objections were made by Miss Lawley to the claim, all of which were over-ruled by the Master, and he allowed the charge.

In March, 1810, Miss Lawley presented a petition to your Lordship, stating that *she* had *sent* an agent (in point of fact, the agent had been sent by the intervention of one of the legatees, to recover a specific legacy) from England, to procure the diamonds, jewels, pictures, and other personal estate belonging to the Duchess, and which were in the Austrian dominions; and praying that it might be referred to the Master to inquire what, under all the circumstances of the case, was best and safest for her to do, without appearing to notice that she had actually employed this man for a considerable time previous to the order. I take leave to observe, that this proceeding was altogether unnecessary; as the Duchess had, by her will, appointed the BARONESS DE BUSCHMAN* to act *abroad*, in behalf of her executrix. An order was, however, made for the Master to inquire whether Mr. Jones, the person sent by Miss Lawley, should be continued, or any other person appointed in his stead. It was part of this order, that the person claiming to be a judgment creditor, should

be at liberty to attend the Master on such inquiry ; but I was merely a passive spectator ; and the Master reported that he was of opinion that Mr. Jones ought to be continued. I took no part whatever in this enquiry, and the Master acted entirely upon the representation of Miss Lawley's solicitors. No person, in the situation things then were in Austria, could have been found to go. Perceiving the collusive manner in which the suit was conducted, by the plaintiff and defendant playing into each other's hands for the purpose of delay, I applied to your Lordship for leave to conduct the suit, " the plaintiff not having used due diligence." The motion was refused, but an order was made for the defendant to deposit in Court certain exchequer bills, and to pay in the money which appeared, by an affidavit she had made, to be the balance in her hands. The balance was four hundred and eighteen pounds ; but, under some shuffling pretence of Miss Lawley's solicitor, she actually paid in no more than a hundred and fifty-five pounds, seven shillings, and nine-pence ; and she deposited the exchequer bills. Upon another occasion, I obtained an order for Miss Lawley to be examined upon interrogatories touching her receipts and payments ; and, after some difficulty, she put in an examination.* Notwithstanding she had advanced to Mr. Jones upwards of a thousand pounds, and he had not procured a *single* diamond, he, as she alleged, was

continually applying to her for further advances, and she again applied to the Court for an order that a sufficient sum might be advanced out of the monies in Court, to discharge the *foreign* debts and legacies of the Duchess; together with a sum of six hundred and fifty pounds, which she stated to have advanced to Mr. Jones out of her own monies. Your Lordship ordered the motion to stand over, and recommended that the parties should come to an amicable arrangement. Sir Samuel Romilly then proposed that if *I* would indemnify Miss Lawley against Mr. Jones's demand, she should relinquish the administration to me, but on no other conditions (very kindly offering, as I had been taken out of a court of law in a suit with Miss Lawley in spite of my teeth, to lead me *into it again* also in spite of my teeth in a fresh suit with Mr. Jones). As I did not choose to involve myself in litigation with Mr. Jones or the claimants at Vienna, I refused to accede to the proposition. Miss Lawley was afterwards more successful upon a subsequent application; for she obtained out of Court the sum of six hundred and fifty pounds, giving security (her own solicitor himself became the security) to refund it, if the Master, upon passing the accounts, should be of opinion it ought not to be allowed her. As the person in whose name the claim had been carried in, was no party to the suit, I was obliged, before I could apply for any part of the money in Court, to obtain an order for the Master to make a separate report of the debt.

took *two* exceptions to it; first, that the debt should have been reported due to the person beneficially interested therein; second, that the Master ought to have certified that the verdict could only affect the Duchess's assets to the extent of *one* quarter's annuity.*

It is really amusing to observe how ingeniously these gentlemen have been able to turn this story to account, by daring to assert *that* which they knew to be false: for very soon after the Duchess's death, I myself left, at the office of Mr. Adlington, all the original pleadings and documents of the suit *Præd v. the Duchess of Cumberland*. At three several times, however, have they induced Sir Samuel to state this nonsense as a fact. It was first made use of as a ground of exception (in the name of Miss Lawley) to the Master's report, and filed on the sixteenth of November, 1812, in these words:

“That the Master *ought* to have certified that the verdict could only affect the Duchess's assets, to the extent of one quarter's annuity.”

This exception was over-ruled—they were not ashamed to return to the charge again, by taking another exception to the Master's report: but, in the *name* of Miss Byam, the exception was argued on the twenty-second of March, 1814, and was disallowed. It is here to be observed, that *both* of these exceptions were filed by the *same* office, and nearly in the *same* words.

I was advised then to refute all these assertions, by stating what I have now been obliged to expose to view. I refrained from doing so, especially as I was assured that, even if their statements were true, it could not avail them in establishing the exceptions. I am now sorry that I did not at *that* time vindicate my character. My seeming acquiescence in these misrepresentations has encouraged the repetition of them ; and they are now, for the *third* time, brought forward by Sir Samuel Romilly, on the suggestion of the same attorneys !!!

They answered, however, the purpose for which alone they were intended ; for the proceedings before the Master were, by that manœuvre, stopped for a year and a half, during which time, interest, for the benefit of Miss Lawley, was accumulating.

SECOND CHARGE.

“ That Miss Lawley, instead of being possessed of an ample fortune, by the death of her *patroness* (as he calls her) *found* herself involved in a tedious litigation, the expenses of which she had to defray out of her *own personal means*. ”

Very hard upon her indeed!—she could not evade a just debt; and *found* herself involved in a tedious litigation! Upon whom does Sir Samuel mean to fix the charge of *litigiousness*? On me I take for granted ; as he words it, it *may* apply to Miss Byam.

Yes, she *found* herself engaged in a suit with *herself*, in the name of Miss Byam; the *translatio criminis*, again.

She was *engaged* in no suit with *me*. I possessed a judgment debt, unsatisfied, and obtained by a verdict at law *against the Duchess*; and I claimed payment of it out of the Duchess's *admitted assets* in the hands of Miss Lawley, her executrix: and I am very litigious, because I do not submit to Miss Lawley, a stranger in blood to the Duchess, converting to her own use that which ought to be appropriated to the payment of a just debt of her testatrix!

So much for the charge of litigiousness.

As to defraying the expenses of this *tedious* litigation out of her *own* means, she has defrayed them out of the means which came to her hands, of the personal property of the testatrix; which, to a very large amount, she has for years evaded accounting for; endeavouring to render the late Duchess appear *insolvent* (though she found her solvent) rather than pay this *just debt*, and involving, by that means, all of the legatees in her disputes, and their natural and necessary consequences.

It appears, by an examination of Miss Lawley,* upon oath, sworn on the thirteenth of May, 1814, upon interrogatories, that she had then received, independently of the American securities, the sum of seven thousand six hundred and thirty two pounds, seventeen shillings, and sixpence: she had

* See Appendix.

paid into Court of that sum five exchequer bills, of one thousand pounds each, amounting to five thousand pounds, which cost her five thousand one hundred and twenty pounds.

At the time she was ordered to pay in the exchequer bills, she was also ordered to pay in the balance, which she swore was then in her hands, amounting to four hundred and eighteen pounds. Mr. Gregory (*Miss Byam's* nominal agent), in obedience to that order, paid in only one hundred and fifty-five pounds, carelessly saying, "he supposed the rest must have been spent:"—the affidavit, however, of Miss Lawley, stating the former balance (*viz.* four hundred and eighteen pounds) to be in her hands, was drawn in his *own* office.

Taking therefore what she did pay in, *viz.* the exchequer bills, which she states as having cost her five thousand one hundred and twenty pounds, and one hundred and fifty-five pounds, seven shillings, and ninepence, making together five thousand two hundred and seventy-five pounds, seven shillings, and ninepence, out of this she obtained an order for six hundred and fifty pounds, upon giving security to the Master, to refund, if the Master should be of opinion hereafter it ought not to be allowed;—and Mr. Gregory *says* he obtained a subsequent order for two hundred pounds, without any security, and indeed without any notice. How he obtained this order is to this moment unknown to me, or to my solicitor in the cause!

Out of the above sums paid into Court, is to be deducted eight hundred and fifty pounds drawn

out by her, with or without your Lordship's orders, and the account therefore stands thus :

Paid in, exchequer bills, five thousand one hundred and twenty pounds, and a balance of one hundred and fifty-five pounds, seven shillings, and ninepence, together five thousand two hundred and seventy-five pounds, seven shillings, and ninepence : redrawn eight hundred and fifty pounds, leaves in Court the sum of four thousand four hundred and twenty-five pounds seven shillings and ninepence, and in Miss Lawley's own hands a sum of three thousand two hundred and seven pounds (as appears by her examination on oath) unaccounted for ; and yet Sir Samuel is instructed to state, that she has paid money *out of her own pocket*.

I have been however obliged to maintain this suit at my own expense, for between six and seven years ; while Miss Lawley has been making interest of the money, withheld from me, during the whole time ; and she has, in consequence, added full three thousand pounds to her capital.

The next charge against me is of an extraordinary nature, and, if it did not come from Sir Samuel, I should say a most audacious misrepresentation—it relates to the diamonds. I shall state the facts relating to them. Sir Samuel said, “ *It* had been deemed advisable.” I must first observe on the word *It*—that word is an artful word, used, for “ *Miss Lawley deemed it advisable :*” and Sir Samuel himself, on an application to this Court for money, so stated it. Afterwards, dexterously

endeavouring to convert her messenger into a messenger of the Court, a motion was made (to which Miss Byam *of course consented*), and it was referred to the Master, “to consider if Mr. Jones should be *continued*, or any one *else sent*.”—Who could have been got to go on such an errand? Of course the Master very properly reported that Jones might be continued—where could they have found him to have recalled him, for he had been abroad some months: and where could they have found another to supersede him? He was originally sent out, notwithstanding, by the Duchess’s will. Baroness Buschman was appointed to act as her executrix abroad. This would not have been tedious or expensive enough; for the Baroness was on the spot, and, as a friend of the Duchess, would most probably have acted for nothing, in carrying the will into effect.

Miss Lawley, however, contrived to obtain an order for six hundred and fifty pounds, upon condition that if the Master did not authorise the expenditure, it should not be allowed on her account. Mr. Adlington, her attorney, gave his *own* security (not a very usual act, I believe, for a solicitor in a cause): without, however, any security at all, she has, it seems, expended more than twice as much on Mr. Jones, without any application to the Court whatever. “Mr. Jones having performed the service imposed upon him, by *recovering* the diamonds, *naturally* made Miss Lawley his debtor for the amount of his trouble

and expenses." I wish this was true, but I believe it to be false, and that he did not *recover a single diamond*; but the assertion of Sir Samuel, that Lord Carhampton's demand would sweep away the whole estate of the Duchess of Cumberland, "including the produce of the diamonds," is an absolute mockery: they are certainly out of my reach, were I entitled, or did I wish to interfere with them. This assertion seems calculated to countenance the malicious and gossiping stories which have been propagated respecting these diamonds: with what truth your Lordship will judge. By the will of the Duchess, certain specific legacies are left in valuable jewels to her particular friends: by no act of *mine* was any impediment thrown in the way of their obtaining them. I thought, and have always said, that as the Duchess chose not to notice a brother, with whom she kept up a correspondence, and who transacted business for her, and a sister on whom she was bestowing marks of regard, and who never had offended her, and their children (I put myself out of the question, as we were on the very worst terms), she could not have disposed of these jewels better. Mrs. Freemantle was her old and valuable friend: the Prince Regent had, during very many years, given her proofs of his sincere regard, therefore he would do honour to her memory, by accepting a mark of her dying gratitude.

I know Mr. Jones was employed by Miss Lawley at the recommendation of Mr. Freemantle, to

secure *his wife's* legacy; and Jones corresponded, for the first year after he went abroad, with Mr. Freemantle, and *not* with Miss Lawley. Mr. Freemantle was in the right to do so; and I certainly had no desire to interfere with any arrangements for the purpose of securing these legacies; nor had I *then* any interest in doing so. There was more than enough in Miss Lawley's hands to satisfy my demands, as I have already shewn to your Lordship. Miss Lawley thought proper to send to the Duke of Clarence two pictures left by the Duchess as a specific legacy to his Royal Highness. It was not very regular for her to do so, before the debts were all satisfied; but I never interfered about it, though I had a *right* to do so, to prevent the spoliation of the estate, until my debt was paid.

Mr. Jones (*it is said*) secured the necklace for Mrs. Freemantle as instructed to do. He volunteered to secure the picture set in diamonds for the Prince Regent, to enhance his own consequence, and make others believe he was authorised to do so. What became of the rest (for there were other specific legacies of great value) *he* best can tell. He says, I believe, that they were sold by order of the government of Vienna, and with his concurrence; and that he had secured only the legacies left to His Royal Highness the Prince Regent, and to Mrs. Freemantle; from which it clearly appears that Mr. Jones acted for these legatees, and put the property out of the reach even of the executrix,

abandoning the other specific legacies (left to Mrs. Fitzherbert and Lady Perceval) to their fate.

Sir Samuel's last assertion is, "that Miss Lawley, without reaping the slightest benefit under the Duchess of Cumberland's will, would be answerable for Mr. Jones's demand, to the amount of several hundred pounds." Does not Sir Samuel *know* that he might have said several thousands instead of hundreds—Miss Lawley having already paid Mr. Jones upwards of two thousand one hundred pounds, and he sets up a claim to as much more, of which demand Miss Lawley resists the payment?

Your Lordship has, perhaps without being aware of it, decided a point of great national importance though apparently relating only to the—hard case—laid before you by Sir Samuel Romilly---In the present state of affairs on the continent, many persons will go abroad, actuated by various motives. It will, I fear, be found that one of the most general, will be a wish to avoid creditors and duns here; and to retrench: people under such circumstances will leave debts of all sorts here, and of course many of the highest nature known to the law of England. Some of these persons will die (as the Duchess of Cumberland did) leaving creditors in both countries, and property in both. By the laws of Germany, the effects of a person dying there, are immediately attached by the state, until all demands arising in that country shall have been satisfied, and this *within a year* after the decease of

the individual. See how that law, coupled with your Lordship's late decision, will operate upon English creditors. I am the only bond creditor of the Duchess of Cumberland here or elsewhere. There was sufficient to pay my demand in the hands of the executrix in England. Instead of paying me, she engages (contrary to the will of the Duchess, who had appointed the Baroness Buschman to act as her executrix abroad) an ambassador at a considerable expense, and with all the paraphernalia of so distinguished a character; carriage, letters of credence, and cash for *secret* service: and Mr. Jones is dispatched *via* Malta to Vienna, not to recover debts for English creditors, or property to pay them, but to pay debts in Germany, and to hunt after specific legacies of jewellery. In these laudable pursuits he is well aided by the laws of Germany: they enable or compel him to pay all the *simple contract creditors abroad*, and impound the jewels for the legatees.---His expences and demand are both considerable, and instead of being defrayed by the legatees, or the German creditors, who are to benefit by his exertions, or out of the produce of property in Germany, your Lordship directs that the fund *here*, to which I have a legal and exclusive title, is to be diminished in the first instance for Mr. Jones's outfit; and then that myself, the *sole bond creditor*, is to indemnify Miss Lawley against the consequences of her own imprudence or injustice, in employing an agent, who could not be of any use to that creditor, as he neither claimed, nor

wished for more than there was in England; and finally, that even the residue, which Miss Lawley cannot deny she holds, and has all along held in her hands, is to be paid, not in the German mode, in *one* year, but in the English method, after the lapse of seven, if at all. We have heard of *German slowness*, but it is the rapidity of a race horse compared to the *tortoise motion* of an English Court of Equity. This, my Lord, is no imaginary case; it tallies in all parts with mine, and must do so with that of many other creditors, while the continent continues open to litigious and fraudulent debtors: and your Lordship will give a preference to foreign simple contract creditors, and even to legatees, over bond creditors in England. I ask only for what Miss Lawley found *here*, as appears by her oath, on taking out probate, and the amount of duty paid by her, on the estate which then came into her hands; and let the German creditors and the English legatees be paid out of the funds impounded abroad; or, if the legacies are worth it, by money subscribed for the purpose of obtaining them by those who are interested. So far from my wishing “to sweep all these jewels into my pocket,” I am, and always was, anxious to avoid meddling with them; but I am at the same time desirous not to be made the cats paw for taking them out of a foreign furnace, for the benefit of other *non-subscribers*—This, my Lord, is the question, so far as it relates to the public at large.

I will now read to your Lordship the decree pro-

reports are adroitly gotten rid of; and I not only am deprived of the fruits of my judgment at law, but am called upon to secure Miss Lawley against claims arising from causes, which, had she succeeded, could not have *benefited* me, and were, in fact, set on foot to *injure my right*.

Here let me read the decree as transmitted by Mr. Gregory to my solicitors.

BYAM *versus* LAWLEY.

Saturday, the 15th day of July, 1815.

“Cur:—Let Mr. Alexander, the Master to whom this cause stands referred, inquire and certify what balance is due to the defendant, Sarah Bettina Lawley, on taking the accounts directed by the decree made in this cause on the 15th day of December, 1809, and let the said Master tax the plaintiff her costs of this suit, as between solicitor and client, and let the said Master* tax the said defendant her

* The Master, on receiving *this* order, must be somewhat amused at its singularity, as well as surprised at its having escaped without notice. The exceptions to one of his former reports were disallowed, with costs—in one instance to be paid by Miss Lawley, and in another by Miss Byam. Mr. Adlington must therefore have paid to his partner, Mr. Gregory, the costs of the disallowed exceptions; while Mr. Gregory, on the part of Miss Byam, must have paid the costs of the same disallowed exceptions—to his partner, Mr. Adlington. This is only ridiculous. Next comes the present order, and directs “all costs and expenses of this suit, and *otherwise incurred in, about, or relating to the affairs of the Duchess of Cumberland, as between solicitor and client, (the most favourable mode to the solicitor)* to be paid to Miss Lawley’s attorney—Mr. Adlington—and as if that was not enough, *all* Miss Byam’s costs in the same way, are to be paid to *her* attorney, Mr. Gregory,—and both, and all, out of the estate!!! Thus, in fact, Messrs. ADLINGTON AND GREGORY, the friends, partners, opponents, plaintiffs, and defendants, will have received the *full* reward of *all* their services, in *all* their characters, out of the fund remaining for the payment of my debt. I therefore, thus circuitously, am made to pay all costs, as well those which were first ordered to be paid to me, as of all others, together with my own particular ones,—as a punishment for seeking in a COURT OF EQUITY the fruits of a verdict, and a judgment thereupon obtained in a COURT OF LAW, nearly *fourteen years ago!*—completely verifying the old lines on the disputed oyster;

costs, charges, and expenses of this suit, *and otherwise incurred*, in, *about*, or *relating* to the affairs of the testatrix, in the pleadings in this cause, named as between solicitor and client. And let so much of the sum of £ three per cent. consolidated bank annuities, standing in the name of the Accomptant-General in trust, in this cause, as will be sufficient to pay to the said defendant the balance due to her on taking the accounts directed by the said decree, and also the said costs of the plaintiff, and of the said defendant, when so taxed as aforesaid, be sold with the privity of the Accomptant-General; and one of the Cashiers of the Bank is to have notice to attend, &c. And let the balance *found due* to the said defendant be paid to the said defendant, Sarah Bettina Lawley, and let the costs of the plaintiff, when so taxed as aforesaid, be paid to Mr. John Swarbree Gregory,* her solicitor. And let the costs, charges, and expenses of the said defendant, Sarah Bettina Lawley, when so taxed as aforesaid, be paid to Mr. Thomas Adlington, her solicitor, and for the purposes aforesaid. Let the said Accomptant-General draw on the Bank, and let the residue of the said sum of £ three per cent. consolidated bank annuities standing in the name of the said Accomptant-General in trust as aforesaid, be transferred to the Right Honorable Henry Lawes Luttrell, Earl of Carhampton, upon his giving security on or before the day of next, to indemnify the

said defendant, S. B. Lawley, from and against all claims and demands of Thomas Jones of Egham in the County of Surrey, Gentleman, against the estate of Her Royal Highness the Duchess of Cumberland, the said testatrix, or against the said defendant, as her executrix, and refer it to the Master to settle such indemnity, in case the parties differ about the same; and in case the said Henry Lawes Luttrell, Earl of Carhampton, shall not give such security as aforesaid within the time hereinbefore limited, let the said Master enquire and certify how much of the said sum of £ three per cent. consolidated bank annuities, standing in the name of the said Accomptant-General as aforesaid, (after the sale of so much as will be sufficient to answer the payments before directed) will be proper and sufficient to be retained to indemnify the said defendant against the claims of the said Thomas Jones, and all costs, charges, and expenses. And let the overplus (IF ANY) after the payments aforesaid, and after retaining so much as will be sufficient to answer the purposes aforesaid, be transferred to the said Henry Lawes Luttrell, Earl of Carhampton. And let the said Master be at liberty to make one or more separate report, or reports, touching any of the matters aforesaid as he shall think fit, and any of the parties are to be at liberty to apply to this Court as they shall be advised.” . . .

And now, my Lord, let me ask you, will any cre-

if in pursuit of his rights he is liable to such a decree as that which I have read, and which it is proposed your Lordship should *make*, and that I should *suffer* in this case?

I hold in my possession the unimpeached judgment of a court of law. There were assets in the executor's hands to pay my demands. Under one pretence, I am incidentally involved in a suit of equity, and lest that should not waste the estate sufficiently, I am called upon to pay, or suffer to be paid, all sorts of costs incurred in suits commenced without my privity, and carried on against my interests. I am called upon to defray or guarantee Miss Lawley against all demands made by her agent to foreign courts—sent without my concurrence, and who, even if he had succeeded, could not have benefited me.—How, in fact, is such a decree as that which I have read, to be carried into effect at all? If it passes in its present form, Miss Lawley ceases to have any interest in protecting the estate from the demand of Mr. Jones; and, as he is her friend and agent, she has a direct interest in letting him diminish, so far as he can, the fund that would otherwise be applicable to the payment of my debt; and I shall again be made the victim of another *amicable* suit, and the prize of two other *amicable attorneys and partners!*

Miss Lawley was interested in defending herself against Mr. Jones's claim so long as she held the estate, but the moment this decree passes, and that I am to guarantee her against the legal consequences of her own folly and imprudence, the ob-

ject of her defence is at an end.—A creditor, thus, may not only lose the debt for which he has obtained a judgment at law, but may be involved in an expense not only exceeding the amount of his claim, but possibly that of his own private fortune, if he is by a decree here, made subject to the indefinite and unascertained demands of agents or others sent to all parts of the world under the pretext of collecting in the estate of a testator; or the costs of solicitors employed here by a foolish or fraudulent executor, in carrying on *amicable* or *other* suits at the expense of the estate—whilst in fact there was, as appears by the probate, and the duty paid here on taking it out, *more than sufficient* to pay the *sole* judgment debt, and, I believe, the *only debt of any sort* due from the late Duchess of Cumberland in England.

I appeal to any unprejudiced man, who has taken the trouble of reading the foregoing observations, whether a less complicated case ever came before a court of justice for decision. A *single* creditor against a *solvent* estate is shuffled backward and forward for seven years, by an executrix who holds that estate in her hands; and is told at the end of that time by the judge that he should have proceeded differently—the creditor replies, that he had applied to his Lordship for permission to proceed in the very mode suggested, but that leave had been refused—in which last declaration he is supported by the executrix's counsel, who informed the Chancellor that “ he had shewn his

Lordship why my application (*that* suggested by the Chancellor himself) could not be granted !!!

After I had concluded, Sir Samuel Romilly rose, and observed, “that the only object the noble Lord had in view, by the present motion, was to have an opportunity of “making a speech.”* If the noble Lord thought his character injured by a report, or designed mistake, in the OBSERVER NEWSPAPER, and that it was proper to remove those unfavourable impressions, by addressing the court, then the whole object of the motion was accomplished.† He thought, as far as he could charge his memory, that he did not state some of the facts there represented, but the noble Lord had delayed for *five months* to bring forward the subject again. It is no wonder, therefore, that he (Sir Samuel) should not recollect, what he thought at the time, was a mere motion of course.

He should have thought, the noble Lord had been aware that Counsel were not answerable for the *facts* which they represented to the Court; they acted only as they were instructed. The noble

* Sir Samuel Romilly was pleased to state that my object was to make a speech; in this he is as much mistaken as he was in several of his *facts*. My *sole* object was to shew that I had been traduced, and injured, by false statements, and by measures, or orders of the Court, founded upon those tales. I am no speechifier, either by profession or taste, and as little likely to “make a speech,” for NOTHING, in the Court of Chancery, as even Sir Samuel himself.

† So far from my attributing a designed mistake to the editor of THE OBSERVER, I thanked him, for having, by a correct report of Sir Samuel’s speech, been the means of my knowing to what extent I had been vilified behind my back. I believe also that THE OBSERVER stated what passed correctly, as it was done on the ensuing day, while Sir Samuel’s doubts and recollections are after a lapse of several months. Mr. Leach, my Counsel, admitted that what *he* had said had been taken down correctly.

Lord had furnished a *very* different history of these transactions. He (Sir Samuel Romilly) had thought that the late Duke of Cumberland was merely a surety for Mr. Temple Luttrell, and always heard that the late Duchess of Cumberland was never possessed of assets; but he now believes the facts to be otherwise upon Lord Carhampton's assertions."

Court of Chancery, Thursday, Dec. 14, 1815.

The Lord Chancellor said (as published in the Morning Papers) "It was a motion to vary the minutes of an order that the Court had made on the fifteenth of July last. The motion of the Earl of Carhampton, which went to vary these minutes, could not be complied with. The only circumstances in which a motion of this kind could be admitted, were—where the minutes were alleged to be *inaccurate*; or *contrary to the order given*. The present motion made no such allegation, but would have the effect of entirely altering the decree. Had the application on Saturday last been made by Mr. Leech, the noble Earl's Counsel, he would have stopped him, and resisted the motion "in limine," as altogether inconsistent with the *rules* or the practice of the Court: but when his Lordship himself wished to be heard, stating "*that his character was implicated, as well as his property affected*," he (the Chancellor) thought it respectful to his feelings to allow him to proceed.

From considerations of this kind alone the order of the Court was allowed, by an application like the present, to become an object of discussion.

The case of Miss Lawley was represented to be a *hard one* at the time that the order was passed. It was so stated

by the Counsel, and his Lordship (the Chancellor) thought so.* The statement of Lord Carhampton *only gave him a different view of it*, without, however, affording any valid reasons *for altering* the minutes. These minutes, and the order they contained, he thought at the time were much a matter of course, *upon the representations made*.

Lord Carhampton felt his character injured by the manner in which the proceedings in this cause were stated in a publication, of which he would now decline taking any notice.† If the doctrines, and the language, were sometimes misapprehended, and consequently misrepresented, by those who stated them to the public, however much he regretted the circumstance, he could not interfere. If a particular case were selected, and a complaint brought before him, in a proper shape, he would know how to dispose of it: but in the present instance *no charge was made*, and he hoped never would. Lord Carhampton might have had his cause managed in a different manner, if he had consulted his counsel, in a different stage of the proceedings. In this case, the Chancellor observed that

* A man, not a lawyer, cannot easily understand the following CONUNDRUM which appears in my case. An order is most formally and regularly obtained, by a mis-statement of every fact in the cause;—I appear, and shew that the whole story is a fabrication, and consequently that the order *should not have been made*. My facts are not denied; and yet the order, surreptitiously obtained, is confirmed, and I am ordered to pay the costs of exposing the grounds upon which it had been made. The Chancellor, it is true, tells me, that *my counsel may suggest some new mode of proceeding*; but the *remedy*, at my time of life, is nearly as bad as the *disease*. The Chancellor may be permitted, and I hope will, to delay much longer on earth than I possibly can, but I doubt if even he will live to see the end of the new chase to which he so kindly invited me. A man in Ireland, by dint of false swearing in the Court of Chancery *there*, obtained possession of an estate—the perjury was afterwards discovered, and he was tried and convicted—after conviction, he addressed the judge, gravely, thus—“My Lord, sure you won’t rob me of the *benefit of my oath*,” meaning I am to be punished in this world, and may be so in the next: that is my affair, but am I not entitled to keep what I so dearly earned.—This seems to have been essentially acted upon, though not said, in the Court of Chancery *here*. “I have mis-stated and falsified every thing—I have been exposed in doing so;—leave me, however, the benefit for which I ventured so much.”

† I was misunderstood by the Chancellor, if he supposed I had complained of the editors of the newspapers. Every thing I said of them implied the contrary. I complained of what had been said in the Court, not of those who had made, what had been so said, public.

the proceedings were conducted by gentlemen who were solicitors for *both* the parties.

This was a practice which his predecessors on the bench discouraged as much as they could, and were anxious altogether to prohibit, if they had thought themselves warranted in doing so. He joined with them in their disapprobation of it. It required more delicacy than could generally be expected from them, to deal fairly and zealously by both sides, and to conduct their business so as to avoid all suspicion or imputation."

"Lord Carhampton will allow me to say, if he conceived the conduct of the solicitors deserving censure, through delay, the Court was open to move thereon, and he might have applied to have the management of the cause." To this I answered—"My Lord, that very thing was done. I did apply, but the motion was refused." Sir Samuel Romilly observed—"I shewed his Lordship reasons why it *could not* be complied with."

Sir Samuel said, "that I ought not to have *delayed* bringing forward my objections to the Decree of the fifteenth of July last." I did *not delay*, as it will clearly appear from the following short statement. I was in the country when the decree was pronounced, confined by a fit of the gout. There was but *one* motion day on which I could have been heard, had I been well, and able to attend, prior to the breaking up of the Court of Chancery for the vacation. As soon as the Court opened again, I went to Town, for the express purpose of bringing the business on, and was only prevented from doing so, by Miss Lawley's solicitor informing mine that Sir Samuel was to make a motion "to settle the minutes," which I thought a proper time for moving in it: but *his delaying* to do so induced me to take the step I did on the ninth of December. I can assure Sir Samuel Romilly, that, so far from wishing to retard the application to the Chancellor, I deeply felt

the mortification of being so long compelled to submit, *even in appearance*, to the unfounded imputations thrown out by him on the 15th of July. So much for the charge of *delay for five months*. One should suppose that the Court of Chancery had been sitting *all* of that time, instead of having sat little more than ten days after Sir Samuel's speech, and continued shut until a very short time prior to that at which I addressed the Chancellor. This loose mode of statement may be *usual* at the bar, but it strikes me as being far from unobjectionable in any other place.

The Chancellor* concluded by saying, "That if the noble Earl chose to make an application to Court, for the *trying* any of the objects of his motion, his Counsel would point out to him the proper plan of proceeding.

The proper course now is to give the order as above stated."

Sir Samuel applied for costs, which his Lordship granted.

Sir Samuel Romilly† wished here to say a word or two respecting what had been heard from the Bar on Saturday,

* Had I recollected my early reading, I might perhaps have acted a more productive part. I have been reminded, that my cause was not *ripe* for hearing—I ought rather to have consulted old Rabelais, than modern reporters, or Blackstone. Rabelais is, or ought to be, the *valde mecum* of every practitioner in a Court of Equity—but why should I suppose that he is not read—when his instructions for conducting a suit have been so implicitly followed?—Amongst other valuable chapters, to be read by either suitors or practitioners, I particularly wish to point out Cap. 39, 40, 42, and 43, of Vol. 3rd, especially Cap. 42,—“How suits of law are bred at first, and how they come afterwards to their *perfect growth*.”

Vide the Dialogue between PANTAGRUEL and JUDGE BRIDLEGOOSE.

† After what passed in Court on the ninth of December, when Sir Samuel Romilly was pleased to say that he believed *my* statement, and seemed, by implication, to express dissatisfaction at having been led astray by his “instructions,” I scarcely thought it possible, that, on the fourteenth of the same month, the fabricators of those “instructions” could have extorted from him so unqualified a panegyric. It was ludicrous enough, when one of those partners, with an imploring countenance, approached Sir Samuel on that day, after the Chancellor had pronounced his opinion, (when, I am told, it is very unusual for Counsel to say another word), urging him to take this bitter pill, which evidently stuck in his throat. I really almost pitied his situation, and could have laughed outright, if I had not respected the place and the presence of the Chancellor. Pope's Lines on a Beauty, came into my head:

“If to his share some *legal errors* fall,

“Look in his face, and you'll forget them all.”

on the character of the solicitors in this suit. He would not have thought himself called upon to make any remark in their justification, had the words which were addressed to the Court not reached beyond the walls of it. Their character, as practitioners here, was too firmly established to be affected by any thing which could be said before those who were capable of appreciating it: but the aspersion had gone abroad into the world, where their conduct might not be so fairly estimated. The learned Counsel therefore hoped that his Lordship (the Chancellor) would say what part of their conduct is deserving of censure.

The Chancellor replied, "that he had no inclination to say any part, nor could he do so!!"

Lord Carhampton begged to be allowed to make an observation or two on what had fallen from Sir Samuel Romilly. The solicitors had no right to complain of the treatment they met with from him, as he held in his hand a paper, which would bear him out in all he had said regarding them.

The large sum of thirty-two thousand pounds of the late Duke of Cumberland's assets came into the hands of the Duchess at his decease, which fact Sir Samuel said he believed *to be true*, upon Lord Carhampton's word. Lord Carhampton added, that if these gentlemen, who gave Sir Samuel his instructions, had dealt honorably and fairly, Sir Samuel would not have been under the necessity of trusting in this instance to *his* unsupported averment. He held in his hand a paper which proved this, and which paper he had left at the office of Messrs. Adlington and Gregory, for their information, *before* Miss Byam's Bill had been filed. It is the very brief Lord Ellenborough (then Mr. Law) held at the trial, and which contained indisputable evidence of the facts that Lord Carhampton had stated. This paper ought to have been put into the possession of the learned Counsel; and the suppression of

it deserved all the epithets Lord Carhampton had bestowed on such disingenuous conduct.

Sir Samuel Romilly still persisted in saying that he *believed* the circumstance above mentioned merely upon his Lordship's statement, as he had *no* other evidence of it before him. No proof of the fact was offered in the proceedings, nor could he well see how it could be necessary to prove it in a Court of Law, at the time alluded to, as the action was then brought only to recover four hundred pounds, or a half year's payment of the eight hundred pounds annuity, for which the Duke's estates were liable. At any rate, Lord Carhampton was not a party in the Cause, as he did not purchase the annuity till afterwards !

The Lord Chancellor interposed, and said that the conversation had already gone far enough. If the noble Lord would take the advice of his Counsel, he would learn how to proceed, in trying the questions in which he was interested, with regard to the assets in Court.

Lord Carhampton said that he wished the balance of the money in Court, due to him, might remain there, till he should determine on further proceedings.

Sir Samuel Romilly said—that the solicitors should have *some* way of clearing their conduct of the imputations cast upon it, and begged that Lord Carhampton would bring the subject forward in *such* a way as would give them an opportunity of doing so.

To this Lord Carhampton answered, that he had no objection to any proceeding that Sir Samuel could point out as proper to be adopted ; but that he should adhere to what he had said respecting the conduct of the solicitors.

APPENDIX.

(A.)

EXTRACTED FROM THE REGISTRY OF THE PREROGATIVE COURT OF CANTERBURY.

The commencement of the Will relates merely to the Duchess's funeral, and some small legacies to her attendants.

“I request his Royal Highness the PRINCE OF WALES will accept of a miniature picture, with my cypher, in remembrance of my affectionate attachment; which neither time, or absence, has diminished towards his Royal Highness. I give to his Royal Highness the Duke of Clarence* *the two whole length portraits* (painted by Gainsborough) of his late royal uncle, and of myself. As they represent the friends of his early youth, they may recall to his Royal Highness's recollection some happy days. I give to my friend *Mrs. Fitzherbert* a ring with the hair of the late Duke of Cumberland, set in diamonds. I give to my friend *Mrs. Selina Freemantle*, a picture of the late Duke of Cumberland, set in diamonds, and the chain I wear with it, and likewise my diamond necklace. I give to my friend *Viscountess Percival* my best diamond ring. I give to *Mrs. Stevens and her daughter Louisa Byam* two hundred pounds each. I give to my late woman, Mrs. Barbara Offray, now at *Hamburgh*, one thousand florins in silver; to my late woman, Mrs. Mills, fifty pounds. I give to *Theresa, Baroness de Buschman*, if she continues in my family to the time of my death, all my plate and other effects

* These were delivered to his Royal Highness by Miss Lawley, immediately on taking out probate, without waiting to see whether the estate was solvent.

APPENDIX.

for the use of my house, or purchased abroad, or brought from England, and whatever may have been intended for my toilet, but not yet worn. I likewise give to the said *Baroness de Buschman* the sum of fifteen thousand florins of the Empire, in silver, and *I do appoint her to receive all money that may be due to me abroad, by bankers, or other persons, and to act in behalf of my Executrix in England,* AND SEND, ACCORDING TO HER DIRECTIONS, ALL MY DIAMONDS, PEARLS, AND OVERPLUS OF MONIES, AFTER THE LEGACIES SHALL BE PAID TO THOSE NOT RESIDING IN ENGLAND, TO THE ORDER OF MY EXECUTRIX.*

(B.)

At the Rolls.

Master of the Rolls.

Wednesday, the fifteenth day of November, in the fiftieth year of the reign of his Majesty King George the Third, One Thousand Eight Hundred and Nine.

BETWEEN LOUISA BYAM, Spinster, Plaintiff,

SARAH BETTINA LAWLEY, Spinster, Defendant.

This cause coming on this present day to be heard and debated before the Right Honorable the Master of the Rolls, in the presence of Counsel, learned on both sides, the substance of the plaintiff's bill appeared to be, that her Royal Highness, Ann, late Duchess of Cumberland, being possessed of a considerable personal estate, duly made and published her last Will and Testament, bearing date the fifteenth day of February, 1808, and thereby gave to the said plaintiff the sum of two hundred pounds; and after

* Notwithstanding this express direction, Mr. Jones is sent to Germany at an enormous expense—of course to benefit the estate !!!

APPENDIX.

giving several specific and pecuniary legacies, she gave to the said Sarah Bettina Lawley all her fortune, real and personal, diamonds, pearls, and whatsoever she, the said testatrix might be entitled to, in present, and in reversion of every kind not disposed of by her will, or that she might thereafter bequeath by a codicil, and appointed the said defendant the sole executrix of her said will, and she desired that her legacies might be paid within one month after her said will was proved. That her Royal Highness afterwards made a codicil to her said will, bearing date the fourth day of October, 1808, whereby she gave certain legacies, but she did not otherwise alter or revoke her said will, and on the twenty-eighth day of December last, her Royal Highness died, without having altered her said last will and testament otherwise than by the said codicil, and without having altered or revoked that codicil; and on the eighteenth day of April last, the said defendant duly proved the said will and testament and codicil in the proper Ecclesiastical Court, and hath taken upon herself the execution thereof, and by virtue thereof she hath possessed herself of the personal estate and effects of the said testatrix to a very considerable amount, *and more than sufficient to satisfy all her funeral and testamentary expenses, and all her just debts and legacies*; and the plaintiff hath therefore frequently applied to the said defendant, and requested her to pay to the said plaintiff the said legacy of two hundred pounds, with interest thereon, from the said eighteenth day of May last; but the said defendant, under various pretences, refused so to do: therefore, that the defendant may answer the several matters aforesaid, and that the said defendant may either admit assets of the said testatrix to come to her hands sufficient to pay the said legacy of two hundred pounds, and interest; or that the said defendant may be ordered by this Court to come to an account for all and singular the personal

APPENDIX.

estate and effects of the said testatrix which have been received by the said defendant, or by any other person or persons by her order, or for her use; and that the same may be applied in a due course of administration; and that thereout the said plaintiff may be satisfied her said legacy of two hundred pounds, with lawful interest for the same from the said eighteenth day of May last; and to be relieved, is the scope of the bill; whereto, the counsel for the defendant alleged, that she by her answer saith, that her Royal Highness the Duchess of Cumberland, in the said bill named, did duly make and publish her last will and testament of such date, and to such effect as in the said bill set forth; and that she afterwards made a codicil to her said will of such date and to such effect as in the said bill intioned, admits, that on the twenty-eighth day of December last, the said testatrix died without having altered or revoked her said will, otherwise than by the said codicil, and without having altered or revoked the said codicil; and that at the time in the said bill mentioned, the said defendant duly proved the said last will and testament in the Prerogative Court of Canterbury; and that she hath taken upon herself the execution thereof; and that she hath possessed herself of as much of the personal estate and effects of the said testatrix as she could obtain possession of: but saith, that the said testatrix for some years before her death resided in foreign countries, and died, as the said defendant believes, at Gorizia, in Carriola; and that a considerable part of the personal estate of the said testatrix is now in the hands of persons resident in foreign countries, and saith, that though some part of the personal estate of the said testatrix hath been received by the said defendant, or by her order, or for her use; yet she doth not know that the same is sufficient to satisfy the debts due from the said testatrix, and the legacies given by her said will, and therefore doth not admit assets of the

APPENDIX.

said testatrix in her hands sufficient to satisfy the legacy claimed by the said bill of the plaintiff; and saith, that in order to avoid the expense of setting out the account required by the said bill, she hath not in her answer, or any schedule thereto, set forth any such account; but that she is ready to account for the personal estate of the said testatrix received by the said defendant, or by any person by her order, or for her use; and otherwise to act in administering the same in such manner as this Court shall direct; and admits that the said plaintiff hath made such applications to the said defendant as in the said bill mentioned, but for the reasons asserted, the said defendant hath refused to comply therewith; whereupon, and upon debate of the matter, and hearing the probate of the last will and testament of the testatrix, her Royal Highness the Duchess of Cumberland, read, and what was alleged by the counsel on both sides, his honour doth order and decree that it be referred to Mr. Alexander, one of the masters of this court, to take an account of the personal estate of the testatrix, her Royal Highness the Duchess of Cumberland, in the pleadings named, come to the hands of the defendant, her executrix, or to the hands of any other person or persons by her order, or for her use; and the said master is also to take an account of the said testatrix's debts, funeral expenses, and legacies, and to compute interest on such of the debts as carry interest after such rate of interest as the same respectively carry on her legacies, after the rate of four pounds per cent. per annum, from the end of one year after the said testatrix's death, unless any other rate of interest or time of payment is limited by her will; and in that case, according to her will, and for that purpose, the said master is to cause advertisements to be published in the London Gazette, and such other public papers as he shall think proper, for the creditors of the said testatrix to come in before him and

APPENDIX.

prove their debts, and he is to give a peremptory day for that purpose, and such of them as shall not come in and prove their debts by the time to be limited, are to be excluded the benefit of this decree: *and it is ordered that the personal estate of the said testatrix be applied in payment of her debts and funeral expenses, in a due course of administration; and then in payment of her legacies: and for the better taking of the said accounts, the parties are to be examined upon interrogatories, and are to produce, before the said master, upon oath, all deeds, books, papers, and writings, in their custody, or power relating thereto, as the said master shall direct, who in taking of the said account is to make unto the parties all just allowances; and his honour doth reserve the consideration of all further directions, and of the costs of this suit, until after the said master shall have made his report; and any of the parties are to be at liberty to apply to this court as there shall be occasion.*

H. BURROWS.

(C.)

COPY OF MINUTES.

Saturday, the fifteenth day of July, One Thousand Eight Hundred and Fifteen.

BYAM v. LAWLEY.

Mr. Leach and Mr. Cooke, of counsel for Lord Cam-
hampton, moves, that the Accomptant-General may be di-
rected to sell eight thousand six hundred and seventy-six
pounds nine shillings and sixpence, Bank three per cent.
annuities: and that the money to arise by such sale, toge-

APPENDIX.

ther with any dividends to accrue thereon, may be paid to the said Earl of Carhampton, in part payment of the sums of nine thousand six hundred pounds, ninety-five pounds, and fifty pounds ten shillings, reported due to him.

Mr. Hart for the plaintiff. Cur. Let Mr. Alexander, the master to whom this cause stands referred, enquire and certify to the Court what balance is due to the defendant, Sarah Bettina Lawley, on taking the accounts directed by the Decree made in this cause, on the day
of

and let the master tax the plaintiff her costs of this suit, as between solicitor and client ; and let the said master tax the said defendant her costs, charges, and expenses of this suit, and otherwise incurred in, about, or relating to the affairs of the testatrix in the pleadings of this cause named, as between solicitor and client ; and let so much of the eight thousand six hundred and seventy-six pounds nine shillings and sixpence, three per cent. consolidated Bank annuities, standing in the name of the Accomptant-General of this Court in trust in this cause, as will be sufficient to raise what the said master shall certify to be due to the said defendant on account of the balance, and also the said costs of the plaintiff and of the said defendant, when taxed, as aforesaid, be sold with the privy of the said Accomptant-General ; and one of the cashiers of the Bank is to have notice to attend and receive the money to arise by the said sale, who, upon receipt thereof, is to pay the same into the Bank, with the privy of the said Accomptant-General, to be there placed to the credit of this cause ; and out of the money to arise by such sale, let the balance found due to the said defendant be paid to the said defendant, Sarah Bettina Lawley ; and let the costs of the plaintiff when so taxed as aforesaid be paid to Mr. John Swarbreck Gregory, her solicitor ; and let the costs, charges, and expences of the said defendant, Sarah

APPENDIX.

Bettina Lawley, when so taxed as aforesaid, be paid to **Mr. Thomas Adlington**, her solicitor ; and for the purposes aforesaid, the said **Accomptant-General** is, to draw on the **Bank**, according to the form prescribed by the **Act of Parliament**, and the general rules and orders of this **Court** in that case made and provided ; and let the residue of the said eight thousand six hundred and seventy-six pounds nine shillings and sixpence, three per cent. consolidated annuities, standing in the name of the said **Accomptant-General**, in trust aforesaid, together with any interest which shall accrue on the said eight thousand six hundred and seventy-six pounds nine shillings and sixpence, previous to such sale and transfer, be transferred and paid to the **Right Honorable Henry Lawes Luttrell**, **Earl of Carhampton**, upon his giving security on or before the day of next, to indemnify the said defendant, **S. B. Lawley**, from and against all claims and demands of **Thomas Jones**, of **Egham**, in the county of **Surry**, gentleman, against the estate of her **Royal Highness the Duchess of Cumberland**, the said testatrix, against the said defendant, as her executrix ; and refer it to the master to settle such indemnity, in case the parties differ about the same ; and in case the said **Henry Lawes Luttrell**, **Earl of Carhampton**, shall not give such security as aforesaid, within the time herein before limited, let the said master enquire and certify how much of the residue of

three per cent. consols **Bank annuities**, standing in the name of the said **Accomptant-General**, as aforesaid, after sale of so much as will be sufficient to answer the payment before directed, will be proper and sufficient to be retained to indemnify the said defendant against the claims of the said **Thomas Jones**, and all charges and expenses ; and let the overplus, *if any*, after the payment aforesaid, and after retaining so much as will

APPENDIX.

be sufficient to answer the purposes aforesaid, be transferred to the said Henry Lawes, Earl of Carhampton ; and let the said master be at liberty to make one or more separate report, or reports, touching any of the matters aforesaid, as he shall think fit, and any of the parties are to be at liberty to apply to this Court as there shall be occasion

(D.)

IN CHANCERY.

16th February, 1814.

LOUISA BYAM, *Plaintiff*,

SARAH BETTINA LAWLEY, *Defendant*.

On this day the Master made the following report :

In pursuance of an order, bearing date the twenty-third day of November, 1813, made in this cause, on the application of the Right Honourable Henry Lawes, Earl of Carhampton, I have been attended by the solicitors for the said Earl, and for the abovenamed plaintiff and defendant, and in their presence have reviewed my separate report made in this cause, bearing date the tenth day of May, 1811, and by reference thereto, I find that I thereby, among other things, certified that the sum of nine thousand six hundred pounds, for which the verdict and final judgment mentioned in my said report was obtained ; and also the two sums of ninety-five pounds, and fifty pounds ten shillings, for costs therein also respectively mentioned, then remained due to William Praed, Esq., as administrator *de bonis non* of Samuel Blackwell, deceased, therein respectively named, and I find that exceptions were taken to my said report by the abovenamed defendant ; by the first of which exceptions it was contended that I ought by

APPENDIX.

my said report to have certified, that the sums aforesaid, if due at all, were not due to the said William Praed, but to John Symmons, in the said report named, or to the person or persons beneficially interested therein; and I find that on the exceptions to my said report coming on to be argued, the Court held the first exception to be good and sufficient, and did, by an order bearing date the seventeenth day of July, 1813, order that the same should stand and be allowed. I have, therefore, pursuant to the said order of the twenty-third day of November, 1813, reviewed my said report, with respect to the matters alluded to by the first exception; and a statement of facts and claim having been laid before me on behalf of the said Earl of Carhampton, whereby he states himself to be the person beneficially interested in the said judgment debt, I have considered the same, together with the evidence produced to me in support thereof, and I find that his Royal Highness, Henry Frederick, Duke of Cumberland, and the Honorable Temple Simon Luttrell, (both since deceased) by a certain bond or obligation under their respective hands and seals, bearing date the seventeenth day of May, 1775, became jointly and severally held, and firmly bound to Samuel Blackwell, Esq. (since deceased) in the sum of nine thousand six hundred pounds, with a condition thereunder written, for making void the same, upon payment by the said Henry Frederick, Duke of Cumberland, and Temple Simon Luttrell, or either of them, their, or either of their heirs, executors, or administrators, unto the said Samuel Blackwell, his executors, administrators, or assigns, of one annuity, or clear yearly sum of eight hundred pounds of lawful money of Great Britain, free and clear of, and from all taxes, charges, and deductions whatsoever, and to be paid during the natural life of the said Temple Simon Luttrell, by equal quarterly payments, on the days therein mentioned; and also a full proportion

APPENDIX.

of the said annuity or yearly sum of eight hundred pounds, up to the day of the death of the said Temple Simon Luttrell, in manner therein mentioned; and I find that by a certain indenture of assignment, bearing date the thirty-first day of May, 1784, the said Samuel Blackwell bargained, sold, assigned, transferred, and set over the said bond or obligation; and the annuity or yearly sum of eight hundred pounds thereby granted, secured, and made payable; and all future and growing payments thereof; and all sum and sums of money secured by the said bond, or recoverable thereon; and all remedies, powers, and authorities whatsoever, which he the said Samuel Blackwell had for receipt or recovery of the said annuity unto John Symmons, Esq. his executors, administrators, and assigns; and I find that the said Samuel Blackwell departed this life, and that letters of administration of all and singular the goods and chattels, rights and credits of the said Samuel Blackwell, with his will annexed, were on or about the nineteenth day of May, 1786, granted by the Prerogative Court of the Archbishop of Canterbury to Humphrey Mackworth Praed, Esq., who thereby became the personal representative of the said Samuel Blackwell; and I find that the said Henry Frederick, Duke of Cumberland, departed this life in or about the month of September, which was in the year 1790, having first made his last will and testament, in writing, bearing date on or about the twenty-sixth day of September, 1777, and thereof appointed his wife, Ann, Duchess of Cumberland (since deceased) sole executrix thereof, who, soon after the decease of the said Henry Frederick, Duke of Cumberland, duly proved his said will in the Prerogative Court of the Archbishop of Canterbury, and took upon herself the burthen of the execution thereof; and I also find that the said annuity being in arrear from the seventeenth day of May, in the year 1790, he, the said John Symmons, in or about

APPENDIX.

Trinity Term, in the year 1791, commenced an action in his Majesty's Court of King's Bench at Westminster, in the name and with the permission of the said Humphrey Mackworth Praed, as administrator of the said Samuel Blackwell, deceased, with his will annexed, against the said Ann, Duchess of Cumberland, as executrix of the said Henry Frederick, Duke of Cumberland, upon the said recited Bond; *and I find that the said Ann, Duchess of Cumberland, having appeared, and amongst other things, pleaded to the said action, that she had fully administered to all the effects of the said Henry Frederick, Duke of Cumberland, which had come to her hands, and issue having been taken thereon, the said cause came on to be tried on the sixth day of July, 1792, when a verdict was given for the said sum of nine thousand six hundred pounds, and in Michaelmas Term, in the thirty-third year of the reign of His present Majesty, final judgment was entered upon record in such action, for the said sum of nine thousand six hundred pounds, debt, and ninety-five pounds, costs, to be levied of the goods and chattels which were of the said Henry Frederick, Duke of Cumberland, at the time of his death, in the hands of the said Ann, Duchess of Cumberland, as executrix as aforesaid, to be administered, if she had so much in her hands to be administered, and if she had not so much in her hands to be administered, then the same to be levied of the proper goods and chattels of the said Ann, Duchess of Cumberland; and I further find that the said Ann, Duchess of Cumberland, afterwards sued out a Writ of Error in the Exchequer Chamber, to reverse the said judgment, but such judgment was in Hilary Term, in the thirty-fourth year of the reign of His present Majesty, affirmed, with fifty pounds ten shillings for the damages, costs, and charges, sustained by reason of the delay of execution of the said judgment; and I further find that the said*

APPENDIX.

Temple Simon Luttrell was living on the seventeenth day of November, 1802, and that the said Humphrey Mackworth Praed departed this life in or about the month of February, 1803, and letters of administration of the goods and chattels, rights and credits, of the said Samuel Blackwell, which were left unadministered by the said Humphrey Mackworth Praed, were on or about the twenty-fourth day of May, 1805, granted by the Prerogative Court of the Archbishop of Canterbury to the said William Praed, whereby he became the legal personal representative of the said Samuel Blackwell; and I also find that the said Ann, Duchess of Cumberland, departed this life sometime in or about the month of December, 1808, having first made her last will and testament in writing, bearing date the fifteenth day of February, 1808, and thereof appointed Sarah Bettina Lawley, the above-named defendant, sole executrix, who, on or about the eighteenth day of April, 1809, proved the same in the Prerogative Court of the Archbishop of Canterbury, and took upon herself the burthen of the execution thereof: and I find that the said John Symmons, sometime in the year 1796, agreed to sell the said Bond, and the said annuity or yearly sum of eight hundred pounds thereby granted, and all arrears then due in respect thereof since the said seventeenth day of May, 1790, and all sums thereafter to grow due for the same unto John Martindale; but before any assignment was executed to the said John Martindale by the said John Symmons, the said John Martindale became a bankrupt, and George Ranking, William Noble, and William Holme, were chosen assignees of his estate and effects; and I find that by indenture bearing date the eleventh day of August, 1809, and made between the said William Praed of the first part, the said John Symmons of the second part, and the said George Ranking, William Noble, and William Holme, of the third part, the said William

APPENDIX.

Praed, at the request, and by the direction of the said **John Symmons**, did make, ordain, nominate, authorize, constitute and appoint, and in his place and stead put and depute the said **George Ranking**, **William Noble**, and **William Holme**, and the survivors and survivor of them, and the executors, administrators, and assigns of such survivor, to be the true and lawful attorneys and attorney, irrevocable of him the said **William Praed**, for him, and in his name, as such administrator of the unadministered goods and chattels of the said **Samuel Blackwell** as aforesaid, or in the names or name of the said **George Ranking**, **William Noble**, and **William Holme**, their executors, administrators, and assigns, to ask, demand, and sue for recovery, and receive of and from the said **Sarah Bettina Lawley**, or the real or personal representative or representatives, for the time being, of the said **Henry Frederick**, **Duke of Cumberland**, **Temple Simon Luttrell**, and **Ann**, **Duchess of Cumberland**, or any or either of them, or whomsoever else it should or might concern, all, and every the arrears, sum, and sums of money whatsoever due, owing, paying, or recoverable for, upon, or by virtue of the said bond, annuity, and judgment, and each and every of them, and to sue or take out execution upon, or otherwise to prosecute the said judgment, and to take and make use of all other lawful or equitable remedies and powers whatsoever, as well at law as in equity, which the said **William Praed**, as such administrator as aforesaid then had, for the recovery of the arrears, money, and premises, secured by the said bond or judgment, in such manner as they the said **George Ranking**, **William Noble**, and **William Holme**, or the survivors or survivor of them, or the executors, administrators, or assigns of such survivor should be advised or think fit; and I find that by another indenture bearing date the twelfth day of the same month of August, 1809, and made between the

APPENDIX.

said George Ranking, William Noble, and William Holme of the first part; the said John Symmons of the second part; and Henry Lawes, Earl of Carhampton, of the third part, after reciting as is therein recited, and after further reciting that they, the said George Ranking, William Noble, and William Holme, with the assent of the said John Symmons, and for, and in consideration of the sum of seven thousand pounds, to be paid to them by the said Henry Lawes, Earl of Carhampton, had agreed with the said Henry Lawes, Earl of Carhampton, to authorize and empower him, his attorneys, solicitors, and agents, to take all proper and lawful measures for receiving, recovering, and obtaining payment of the arrears, sum, and sums of money, due, payable or recoverable upon the said Bond, annuity, and judgment, and to retain or pay over to him, the said Henry Lawes, Earl of Carhampton, for his own use and benefit, all such arrears, sum, and sums of money as should, or might be so received, recovered, or obtained upon, or by virtue of the said Bond, Annuity, or Judgment.—It is witnessed, that in pursuance and performance of the said agreement on the part of the said George Ranking, William Noble, and William Holme; and for, and in consideration of the sum of seven thousand pounds, of lawful money of Great Britain and Ireland, current in England, to them in hand paid by the said Henry Lawes, Earl of Carhampton, at, or before the sealing and delivery of the said indenture, with the consent of the said John Symmons, testified, as therein mentioned, the receipt whereof was thereby acknowledged.—They the said George Ranking, William Noble, and William Holme, with the consent of the said John Symmons, testified, as therein mentioned, did thereby for themselves, their executors, administrators, and assigns, covenant, declare, and agree with, and to the said Henry Lawes, Earl of Carhampton, his executors, administrators, and assigns, that it should,

APPENDIX.

and might be lawful to, and for the said Henry Lawes, Earl of Carhampton, his executors, administrators, and assigns; and his, and their attorney or attornies, solicitor or solicitors, agent or agents, from time to time, and at all times thereafter, in the names or name; and as for and on the behalf of them the said George Ranking, William Noble, and William Holme, or the survivors or survivor of them, or the executors, administrators, or assigns of such survivor; but at the proper costs and charges, and for the only use and benefit of the said Henry Lawes, Earl of Carhampton, his executors, administrators, and assigns, to take, use, exercise, prosecute, defend, enforce, execute, and carry on all and every such actions, suits, executions, processes, writs, proceedings, remedies, powers, claims, and demands whatsoever, as well at law as in equity, against the said Sarah Bettina Lawley, or the real or personal representative or representatives, for the time being, of the said Henry Frederick, Duke of Cumberland, Temple Simon Luttrell, and Ann, Duchess of Cumberland, or any or either of them, or whomsoever else it should or might concern, for receiving, recovering, or otherwise compelling or obtaining payment of all and every the arrears, sum, and sums of money, costs, damages, and expenses whatsoever, which then were, or at any time or times thereafter should, or might be due, owing, payable, or recoverable, for, upon, or by virtue of the said Bond, Annuity, and Judgment, or any or either of them, as they the said George Ranking, William Noble, and William Holme, or the survivors or survivor of them, or the executors, administrators, or assigns of such survivor lawfully could, or might take, use, exercise, prosecute, enforce, or carry on; and he the said Henry Lawes, Earl of Carhampton, his executors, administrators, or assigns, or his or their counsel in the law, should reasonably devise or advise and require; and further, that if any such arrears, sum or sums of money, costs,

APPENDIX.

damages, or expenses, should at any time or times thereafter come to the hands of, or be received by them the said **George Ranking, William Noble, and William Holme**, or the survivors or survivor of them, or the executors or administrators of such survivor, for, upon, or by virtue of the said Bond, Annuity, and Judgment, or any, or either of them, then, and in every such case, they the said **George Ranking, William Noble, and William Holme**, or the survivors or survivor of them, or the executors or administrators of such survivor, should, or would forthwith, upon the receipt thereof, well and duly pay over to the said **Henry Lawes, Earl of Carhampton**, his executors, administrators, or assigns, to, and for his or their proper use and benefit, all, and every such arrears, sum, and sums of money, costs, damages, and expenses, as should come to the hands of, or be received by them, the said **George Ranking, William Noble, and William Holme**, or the survivors or survivor of them, or the executors, administrators, or assigns of such survivor; and I find that the said annuity or yearly sum of eight hundred pounds now remains in arrear, from the seventeenth day of May, 1790, up to the day of the death of the said **Temple Simon Luttrell**, which was on or about the twenty-fourth day of January, 1803, no money having been paid for the arrears of the said annuity which accrued due subsequently to the seventeenth day of May, 1790; and I find that on the seventeenth day of November, 1802, (the said **Temple Simon Luttrell** being then living) the sum of ten thousand pounds became due, for twelve years and one half of a year's arrears of the said annuity; and I find that the said judgment so obtained and affirmed as aforesaid is unsatisfied, and still remains in full force and effect; and the two sums of ninety-five pounds, and fifty pounds ten shillings, so awarded and given for damages and costs, as aforesaid, still remain due and owing; and I further find that the said **Henry Lawes**,

APPENDIX.

Earl of Carhampton, is the person beneficially interested in the said sum of nine thousand six hundred pounds, for which the said verdict and final judgment were so obtained, and also in the said two sums of ninety-five pounds and fifty pounds ten shillings for costs as aforesaid, which sums I therefore find to be due to the said Henry, Earl of Carhampton, by force of the aforesaid judgment.

To which Report the Plaintiff objected, and has since filed the following Exception thereto.

An Exception taken by the said Plaintiff, to the Master's Report in this Cause.

“ For that the said Master, by his said report, finds that Henry Lawes Luttrell, Earl of Carhampton, is the person beneficially intrusted in the sum of nine thousand six hundred pounds, for which the verdict and final judgment mentioned in the report were obtained, and also in the two sums of ninety-five and fifty pounds ten shillings for costs, which sums he therefore finds to be due to the said Henry, Earl of Carhampton, by force of the aforesaid judgment.

Whereas, on the decease of his late Royal Highness the Duke of Cumberland, which happened in or about the month of September, 1790, the sum of two hundred pounds, being one quarter of a year's annuity, secured by the bond in the report mentioned, was due, and though her Royal Highness the late Duchess of Cumberland may have had assets of the late Duke of Cumberland sufficient to answer the said arrears of two hundred pounds, yet it does not appear by any evidence before the Master that she had assets of his Royal Highness unadministered at the time of bringing the action mentioned in the report to the amount of nine thousand six hundred pounds, or to any definite amount beyond the sum of two hundred pounds, and therefore the said Master ought not to certify the sum of nine thousand six hundred to be due to the said Henry, Earl of Carhampton.

APPENDIX.

ton, "by force of the aforesaid judgment, or that any other sum beyond the sums of two hundred pounds, ninety-five pounds, and fifty pounds ten shillings, is due to the said Henry, Earl of Carhampton, from the personal estate of her said Royal Highness."

See the verdict and Master's former report thereon, and the observations hereunto annexed.

OBSERVATIONS.

In the action brought by Praed against the Duchess of Cumberland, she amongst other things pleaded *plene administravit*: issue was taken upon that plea; and upon the trial, the jury by their verdict found that the *Duchess then had, and on the day of the suing out the plaintiff's writ, had, sundry goods and chattels which belonged to the Duke of Cumberland at the time of his death, in her hands, to be administered to the value of the debt specified in the pleadings*, wherewith she might have satisfied the said debt.

An office copy of that judgment was produced to the Master when he was proceeding on the present claim, and he was of opinion that it was sufficient evidence *that the Duchess had assets of the late Duke's, unadministered at the time of bringing the action, to the amount of the nine thousand six hundred pounds, the penalty of the bond.*

Mr. Praed was prepared at the trial to have given evidence that the Duchess had possessed assets to the amount of many thousands, beyond the penalty of the bond. After some of his witnesses had been examined, Mr. Erskine, who was counsel for the Duchess, (with the consent of Mr. Lowten, her attorney), said that he would not give the plaintiff's counsel any further trouble, but would admit assets to the

APPENDIX.

amount of the penalty of the bond, and the verdict was recorded accordingly.*

(E)

BYAM v. LAWLEY.

Exceptions taken by the said Defendant to the separate Report of William Alexander, Esq. one of the Masters of this Court, to whom this Cause stands referred by the Decree made therein on the Fifteenth Day of November, 1809.

FIRST EXCEPTION.

For that the said Master hath in and by his said Report certified that the sum of nine thousand six hundred pounds, for which the verdict and final judgment mentioned in his said Report, was obtained: and also the two sums of ninety-five pounds, and fifty pounds ten shillings, therein mentioned, for costs, do now remain due to William Praed, as administrator de bonis non of Samuel Blackwell, deceased. Whereas, it appears in and by the same Report, that upon the thirty-first day of May, 1781, the said Samuel Blackwell, for a valuable consideration, duly assigned the annuity mentioned in the said Report to John Symmons, Esq. in the said Report named; and the said Master ought therefore to have certified, in and by his said Report, that the sums aforesaid, if due at all, are not due to the said William Praed, but to the said John Symmons, or the person or persons now beneficially interested therein: but that no evidence has been laid before the said Master, whereby it appears that the beneficial interest of and in the sums aforesaid is now vested in

* An affidavit, stating the facts contained in this paragraph, was offered to the Master if he thought it necessary, but he was satisfied without it; as well he might, the verdict of a jury of twelve men being better evidence of the fact.

APPENDIX.

the said John Symmons, or whereby it appears in whom else it is vested.

SECOND EXCEPTION.

That on the decease of his late Royal Highness the Duke of Cumberland, which happened in or about the month of September, 1790, the sum of two hundred pounds only, being one quarter of a year's annuity, secured by his bond, in the said Report mentioned, was due and owing; and that therefore the said Master ought in and by his said Report to have certified that the verdict so obtained as aforesaid, *de bonis propriis*, against her late Royal Highness the Duchess of Cumberland, could only affect her personal assets to the extent of the said quarter's annuity.

In all which particulars, the said Defendant doth except to the said Master's Report, and humbly appeal therefrom to the judgment of this Honorable Court.

(F)

BYAM v. LAWLEY.

The Defendant was examined upon interrogatories as to her receipts and payments, and also as to the outstanding estate and effects of the testatrix.

In her examination, sworn the thirteenth of May, 1814, after setting forth an account of her receipts and payments, she states that there was then standing in the name or to the credit of the testatrix, the sum of four thousand five hundred dollars, American six per cent. deferred stock, except so far as the same may have been reduced by annual payments up to the first of January, 1811, but she had not been able to find or possess herself of the original certificates of such stock; and that some alteration taking place in America, as to the management of the said stock, and payment of the dividends thereof, which made it necessary

APPENDIX.

to send out powers of attorney, and to be at considerable risk, or to pay a large commission; and this suit having been commenced against her, she did not consider herself authorised to incur such risk or expense, and did not therefore send out such powers of attorney to America relative to such deferred stock.

That the testatrix in her lifetime, purchased by the agency, and in the names of Messrs. Bird, Savage, and Bird, or one of them, ten shares of, or in the American bank stock, but she believed the same were not transferred into the name of the testatrix, in consequence of attachments being laid on the said stock, and a suit instituted in the Court of Chancery in America, and that until the said thirteenth of May, she had not heard, or been informed, that the said shares had been transferred into the name of the testatrix, but she was then informed that the same had been transferred, and did then stand in the name of the said testatrix, and she had not therefore been able to possess, receive, and get in the same, or to receive the dividends thereof, and the same were, as she believed, then still outstanding, and the dividends thereof unreceived.

That a picture, given by the will of the testatrix to the Prince Regent, and also a necklace given by same will to Mrs. Freemantle, were then at Vienna, under the care or in the custody of the Austrian government, or of the proper legal tribunal or officers there, who, she was informed, and believed, refuse to deliver the same up without a written order or consent signed by the said legatees.

That there were divers diamonds, pearls, jewels, and pictures, belonging to the testatrix at the time of her death, and which, with some cash and other property, were, as she had been informed and believed, taken possession of by, or under the authority of the Austrian government, within whose dominions the testatrix resided at the time of her death. That a copy of the proceedings on that

APPENDIX.

occasion, with a list of the articles, was transmitted to her ; and that she had set forth a copy thereof in the second schedule ; but that there were not any diamonds, pearls, jewels, and pictures, belonging to testatrix, other than those mentioned in said list ; and that same had not, nor had any part thereof, been received or possessed by her, or by any person or persons on her behalf, or by her authority ; although she, believing same to be of great value, was advised to, and did authorise and depute Mr. Jones to proceed to the Austrian dominions, for the purpose of obtaining the delivery and possession of the same ; but, notwithstanding all his endeavours, said Mr. Jones was unable, as he had informed her, *to obtain same, or any part thereof* ; and, on the contrary, the whole thereof, except the picture and necklace hereinbefore-mentioned, had been disposed of by, or under the decree or order of some competent tribunal in the Austrian dominions, and the produce applied under and by the orders and directions of same tribunal.

Upon taking the accounts in the Master's office, it appeared that the whole of the sums received by the defendant, amounted to the sum of seven thousand six hundred and thirty-two pounds, seventeen shillings, and sixpence, and that she had paid and disbursed the sum of seven thousand, seven hundred, and eighty-five pounds, thirteen shillings (including what she had paid into court) which latter sum exceeded her receipts ; but as the Master disallowed thereout the sum of two hundred and twenty-two pounds, the balance then in her hands was only sixty-nine pounds, four shillings, and sixpence ; and as she cannot have received more than a year's interest on the four thousand five hundred American dollars, it will be scarcely worth while to have it paid into Court.

THE END.

MR. ALEXANDER BARING'S

SPEECH

IN THE

HOUSE OF COMMONS,

ON

THE 15TH DAY OF MAY, 1823.

ON

MR. BUXTON'S MOTION

FOR A

RESOLUTION DECLARATORY OF SLAVERY

IN THE

British Colonies

BEING CONTRARY TO THE ENGLISH CONSTITUTION

AND TO

CHRISTIANITY.

LONDON:

MARCHANT, PRINTER, INGRAM-COURT, FENCHURCH-STREET.

1823.

THE
S P E E C H
OF
ALEXANDER BARING, Esq
IN THE
HOUSE OF COMMONS,

On Mr. Buxton's Motion for a Resolution declaratory of Slavery in the British Colonies being contrary to the English Constitution and to Christianity.

HAVING been alluded to by the Honourable Mover, Mr. Baring rose to deliver his sentiments on the very important subject before the House, which must be touched with the utmost delicacy, though he thought it necessary that something should be done. If there were

facts of that extreme atrocity, which had been set forth, every risk must be encountered to get the better of the system which had produced them ; and no time should be lost in setting about the work. But he considered the statements of the condition of the negroes, and the hardships to which they were exposed, made by the supporters of the Motion, as very much exaggerated ; and the House should be cautious how it reposed its confidence on those whose thoughts, for many years past, had been continually brooding on this subject, but who knew nothing of the matter from experience, and had probably received a bias of mind incompatible with a sound and prudent decision. He preferred to confide in the testimony of the Governors of the Colonies, which had been read by the Member for Sandwich. [Mr. Marryatt.] He trusted to the accounts of gentlemen of education and merit, who had no interest in the Colonies ; and who had been directed by the Government, of which they were the servants, to

give them a faithful account of the slave population. It was very improbable, that those high officers should mislead the Government. It was much more likely, that the supporters of the Motion should themselves be deceived, as to the general condition of the slaves in the West Indies, by those in whose narratives they had confided, and who may have drawn the pictures they have presented, as portraits of the whole, from individual likenesses, or solitary instances of oppression, after having exaggerated them ; and thus have converted the distorted exceptions into the rule. He had no property in the West Indies, but he had been himself through the southern states of America, and had therefore witnessed the situation of negro slavery. From his personal observation in that country, and all the information he had been able to collect from the West Indies, if he were considering the condition of the different classes of mankind, and the degrees in which they were deserving of the consideration of the Philanthropist and of

the Christian, the fate of the West Indian slave is far from being that which would first arrest his attention, or which he should consider as burthened with the greatest portion of those hardships, which are more or less the lot of all conditions of life. The name of slave is a harsh one ; but their real condition is undoubtedly, in many respects, superior to that of most of the peasantry of Europe. They were well clothed and well fed, and, he believed, generally treated with justice and kindness. Their moral state is, probably, that which most loudly calls out for consideration and amendment. He hoped that, in this respect, considerable improvement would take place ; nor could he see what danger or injury could arise to the planters from a well-digested and prudently-executed plan of religious instruction, by which alone the negro could be raised in the scale of human beings. Should, however, Parliament decide, that any more material alteration should be effected in the condition of the

blacks, the masters are undeniably entitled to compensation for any losses which such a new course of policy might bring upon them. We should otherwise be committing the grossest injustice, under professions of justice and humanity. *He warned the country, that if the Negroes in the West Indies were liberated, either immediately or remotely, or in any way whatever, those colonies would be of no farther value to Great Britain.* It would not be worth our while to keep up governments and garrisons among them. It was ridiculous to suppose that a free black population in those islands, sufficiently enlightened to know the value of their rights, and to be able to appreciate their strength, would long continue to serve the interests of proprietors residing in England, or that England would long preserve any interest whatever in those colonies. He thought the plan of the Honourable Mover of the Resolution for emancipating the children, born after a certain day, would be attended with very great difficulty, as well as much injustice. It

would convert a real property into an interest for life, and what planter would calculate his own interest so badly, as to rear up, at considerable cost, those children, who would be taken from him as soon as their labour would be valuable? Besides, at the time the slave trade was abolished, the promoters of that measure relied, with great reason, upon its good effects being felt, in obliging the planters to take care of the children of their slaves, and of the mothers during and after their pregnancy. Deprived of the means of purchasing other slaves, it was said, that it would be highly their interest to do so; but now, according to the notions of the supporters of the Resolution, this principle was to be abandoned, and another, directly the reverse, substituted for it, which would make it the interest of the planters to neglect the children, in whom they would cease to have any interest. Such inconsistency was a proof that the abolitionists had not calculated their plans correctly, and therefore gave the House no encouragement to follow them

with any confidence. He could not agree with those who thought there was no danger of the slaves mistaking the nature of such discussions in Parliament. It had been said by an honourable and learned gentleman (Mr. Brougham) that the insurrection of the slaves in Barbadoes, which had occurred a few years ago, was not owing to their having mistaken the object of the registry, a measure at that time about to be established. He called upon that honourable and learned gentleman for the authority on which he made that assertion [*no answer*]. He (Mr. Baring), on the authority of the governor of the island, Sir James Leith, maintained, that it was in consequence of the intervention of Parliament at that time being mistaken by the slaves; and from that instance of mischief having ensued, he argued, that further evil may be expected from the repetition of the same causes. Indeed it was impossible but that the arguments in their favour should cause great excitement in the minds of the slaves. If Parliament were to deliberate

whether the property of the rich in this country should not be divided among the poor—if the poor were told that it was hard for them to live upon bread and water, while the rich feasted upon venison and champaign, (and, on the principles of Christianity, good arguments on such a topic could not be wanting,) it would be exhibiting an entire ignorance of human nature to suppose that such discussions could be entertained without imminent danger, even in the presence of a population more enlightened and more accustomed to the occasional extravagances of free discussion than the negroes of the West Indies. The honourable Mover of the Resolution had given cases of negro slavery which had been put an end to without any convulsion or ill consequences having followed. Those who spoke of these instances could hardly express themselves in terms of sufficient delight. They were full of the beauty of the scene, in observing how gradually the whole mass of slavery melted and sunk away, without disorder of any kind, or any measures

on the part of the Legislature being needed, to prevent the danger and mischief usually anticipated. But he begged leave to say, that the instances mentioned are cases so little in point, that it would require much candour to suppose they could be selected, with good faith, by those who brought them forward. In New York, the white population was about a million. Its slaves, at the time of their liberation, did not exceed five thousand. It was impossible that the whites could fear anything from the emancipation of the few slaves that were among them. It was the same in New Jersey, another instance which had been adduced. There the white population was very numerous, and the number of the slaves did not exceed ten thousand. In Pennsylvania the whites were nearly as numerous as in New York, but the slave population, owing to the exertions of the Quakers, has at all times been inconsiderable. The case of Columbia was, perhaps, a little more in point. Yet, according to the statement of the honourable Mover,

the free population was more than double that of the slaves, and the fate of that country can hardly be considered as yet sufficiently settled, to draw any sober conclusions from what is passing there. In Ceylon, another of his examples, the slaves were in a state of vassalage, more like the condition of the ancient peasantry of England, and all classes consisted of men who derived their origin from the same source, viz. the Malabar race. That country was under a strong military government. Its tranquillity did not rest on the opinion of the freeman or the slave, and, therefore, neither in this nor in the other instances brought forward, is there that resemblance with the situation of our West-India colonies, where the slaves out-number the whites, in the proportion of at least 10 to 1, to constitute any thing like a perfect analogy. We are not, therefore, justified in believing, that slavery in our West-India colonies would melt into freedom, without convulsion, or that the agitation of questions of this nature is unattended with

imminent peril. We ought always to remember, that the West-India Planters are our brethren, the descendants of the same ancestors, equally with ourselves entitled to the protection of the laws, and to the parental affection and care of the state. With every respect for the motives of the numerous Petitioners on this subject, he must confess, that he had witnessed too much the tricks and calumnies by which these representations were collected, to ascribe much weight to them, and he conjured the Right Honourable Gentleman, as a Minister of the Crown, not to be led away by petitions so got up. They were signed by persons, few of whom had any means of information, and mostly by those, who were in the habit of annually quieting an over-timid conscience by a subscription to missions and to some petition about slavery, of the nature of which they knew nothing, but from the distorted exaggerations of enthusiasts. When it was considered that these petitions were, as is well known, brought in such loads

to the table of the House, in consequence of a plan organized by a few persons in the metropolis, gentlemen would ascribe to them only the weight they deserved. The operation of this species of organized delusion has been tried on several subjects in this House. It is now to be tried for the destruction of the West-Indian Proprietors. However absurd the principles sought to be promoted may be, it is well known how difficult it is to resist, when in this country popular opinion is once raised. The Court, the Ministry must give way to the fashionable humbug of the day, and even the conclaves of Sovereigns, united at Vienna or Verona, must promulgate something about negro slavery. The Plenipotentiaries of England regularly suffer themselves to be sneered at for their hypocrisy in these great meetings, but they never fail to return home with a bundle of papers to lay before the House, to prove the great interest which the Emperors of Austria and Russia take in the fate of Africa. In this instance, state papers, full of humanity and

Christian feelings, are cheaply bestowed ; but if these great Sovereigns were very serious, one would suppose they could hardly want matter in their own countries, where slavery prevails in full force, to try the experiments they so authoritatively recommend. He could not but feel surprise, that the honourable Mover of the Resolution had made so light of vested interests, charters of our Sovereigns, and Acts of the Parliament of the country, in this case, when, on a former occasion, he appeared to be so stout a champion for the sacred observance of these titles to property. He recollected, when it was proposed by his Majesty's Government to give the people of this country a cheap and wholesome beer, which they might use at home, without the necessity of going to the alehouse, a measure which he (Mr. Baring) considered to be one of wisdom and humanity, because nothing could tend more to increase the comforts of the families of the poor, that honourable Gentleman opposed it with all his might, and was as loud in plead-

ing for the maintenance of vested rights in one class of the community against all others, as any member of the House. There was, perhaps, no alteration in our laws, which would more especially contribute to the well being of the labouring classes of this country, than emancipating them from that monopoly which put them at the mercy of a powerful combination, both for the price and quality of their principal beverage. The honourable Gentleman was, in this instance, a most resolute stickler for vested interests, and even for rights, which few considered to be so evident as himself. He (Mr. Baring) was surprised, therefore, to observe the honourable Member for Weymouth had said so little of the just claims of the Planters for the losses they might sustain from the experiments he recommends. [Mr. Buxton said he admitted their right to compensation.] If any man's property in this country be taken away from him for a general purpose, the laws awarded him compensation for it, and he must always enter his protest

against all violations of this wholesome and just rule : whether the West Indians are to be despoiled, or ourselves ; or whether the object, of which the owner is to be bereft, be slaves, or other property. He concluded, by wishing well to the endeavours of his Majesty's Ministers, in the execution of the delicate and difficult task which they had undertaken, trusting, as he did, that, looking at this question with a sincere desire of amelioration and practical improvement, they would also do so with the wisdom and caution of statesmen, who knew how to appreciate the great interests with which they had to treat.

THE END.

MARCHANT, PRINTER, INGRAM-COURT, LONDON.

The Manchester Tragedy.

THE SUPPRESSED

NARRATIVE,

OF

THE COURIER REPORTER,

WHO,

*Through the faithful and affecting manner in which
he described the Tragical Events of the 16th of
August, lost the confidence of his employers.*

'I have now brought this brief narrative to an end, and I declare, before God and my country, that it is, in every word, a true and faithful picture of what fell under my personal observation; whether this may have been the reason which has induced its suppression, and lost me the confidence of my employers, I leave the world to determine.'—*Ibid.*, p. 12

LONDON:

PRINTED FOR LIMEBURY, 15, FLOREY STREET, STRAND
AND SOLD BY

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Price Three-pence.

ADVERTISEMENT.

The Author of the following Narrative begs to state the reason which has withheld him from giving his own proper name along with his designation as Reporter to the Courier. In the course of the tragical transactions described, he was obliged, in self defence, and for his self preservation, to prevent a trooper from cutting him down, by presenting a brace of loaded pistols and threatening to shoot him through the body. He did not fire them, but he cannot be sure that witnesses might not be found to say that he did. He deems it therefore prudent to consult his safety, by keeping his personal identity in as much obscurity as possible for the present.

September 6, 1819,

SUPPRESSED NARRATIVE.

I SIT down to fulfil a painful but imperative duty. It has been my misfortune to be an eye witness of a transaction which will be matter of history, and on which my country is now sitting in judgment. My testimony has been publicly appealed to in a way not the most pleasant to my personal feelings*; and honour and justice alike demand that I should obey the call.

It is my duty professionally to report the truth, and I have no other feeling to gratify than an earnest desire to see it established; I shall therefore state simply and faithfully all that I saw, heard, or know of the events on which public opinion is now so anxiously endeavouring to resolve itself, without presuming to offer any other comments than such as necessarily mixed themselves with the observations I made.

I arrived in Manchester on the evening of Saturday the 14th of August. Early on the morning of Monday I went to make a preliminary survey of the ground where the approaching meeting was to be held. It is a large open space to the north of St. Peter's Church, and hence called St. Peter's Field. It struck me on the first view of it as a place well chosen for a large assemblage of people, but as one of the last places in the world in which a multitude intent on mischief would choose to assemble. It offers no point of protection from any attack by a military force, and but few facilities for escape. I cannot perhaps better express my idea of it than by mentioning that, in a military point of view, St. Peter's Field is in all respects the reverse of what another celebrated scene of popular convocation, Spa Fields, once was. I recollect well, that on the occasion of the first meeting at Spa Fields, which led to the attack on the gunsmiths' shops in the city, it was

* See Morning Chronicle and Evening Star Newspapers.

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generally remarked that a spot more difficult for the military to act in could scarcely have been selected. It was wholly otherwise with respect to St. Peter's Field, a more exposed or defenceless situation than which it is impossible to imagine.

While making this survey, I made another observation, which, as illustrative of the subsequent events of the day, may be regarded as of some importance. The ground, unlike most waste spots of the same kind which I have seen about cities, was remarkably, I might almost say wholly, free from rubbish and loose stones. I was afterwards informed that the Magistrates had purposely cleared the ground of every thing of this description, but I had no opportunity of ascertaining whether this was really the case or not.

As yet, very few persons had collected on the ground, and I went back to the inn where I had taken up my quarters, to breakfast.

I returned to St. Peter's Field exactly at eleven o'clock. Several hundreds of persons had now collected together. I mingled among them, and talked with a good many, but found them not disposed to be communicative. They seemed to view me with an eye of distrust, and made but brief answers to the questions I put. I asked one of them if he thought Mr. Hunt would be elected? (meaning after the manner of Sir Charles Wolseley at Birmingham) 'I dare say,' said he, in a broad Yorkshire dialect, 'our enemies wad like nought better.'

At half past eleven, my attention was first particularly attracted by a crowd of people advancing to the ground with flags and music. They came in a sort of marching order, and were covered with dust, having as I learnt come from some town at a distance; I was told the name at the time, but the surpassing interest of subsequent events has swept it from my recollection. A number of women, boys, and even children were in the procession, which had, from this circumstance, more the appearance of a large village party going to a merry-making than that of a body of people advancing to the overthrow of the government of their country. I scrutinized the men closely to see whether they were armed with any weapons of offence, but I could observe few who could be said to be so. It is a rare thing, to meet a person walking on the

high road in the country without a stick of some sort or other; but here was a whole troop of pedestrians with scarcely a dozen sticks among them. The honest impression made on my mind at the moment was, that they had purposely refrained from bringing any such instruments of alarm with them. Whether they might not have been provided with weapons of a different sort—with daggers such as that found on Blandford, or with pistols, it is of course impossible for me to say. I should think, however, that had the men looked for, or been at all prepared for any thing like an affair of daggers or pistols, they would scarcely have brought their wives and children along with them.

Other parties of the same description kept now arriving in quick succession—all marching in the same order—all carrying banners—and most of them preceded by bands of music playing ‘God save the King’ and ‘Rule Britannia.’ I moved about as briskly as I could amongst them, and every where the same facts as I have just stated with respect to the first party met my observation; husbands with their wives; brothers with their sisters; neither swords nor muskets, and but very few sticks. I observed in the hats of a number of them bits of white cloth, intended, I presume, as the reforming emblem, being of the same colour as the hats worn by Mr. Hunt and other notables of the party.

A waggon had, in the mean time, drawn up near the centre of the field, in which the standard bearers of the different detachments successively took their station. I made my way to it, and had an opportunity of reading most of the inscriptions. I was much struck with their general and extreme variance with the external aspect of the assemblage in every other respect. ‘Equal Representation or Death.’ ‘Unite and be free.’ ‘Die like men, and not be sold like Slaves.’ ‘Hunt and Liberty.’ ‘God armeth the Patriot.’ Such were some of the mottos of a multitude of as peaceable a demeanour as I ever witnessed.

I observed, also, among the flags, several Caps of Liberty, which, by those who judge of such emblems, not from the history of their own country, but from the revolutionary history of France, may be considered as of an import even worse than any thing which the banners

displayed. I trust I shall not violate probability by supposing, that the most recent recollections are those by which such a multitude were most likely to be guided.

Among the bands which arrived were two which consisted entirely of females; one was from Royton, the other from Stockport. They consisted, I was informed, of the members of the Female Unions established at these places. Both of them carried banners inscribed with the heads of Major Cartwright's Bill, 'Annual Elections,' 'Universal Suffrage,' and 'Vote by Ballot.'—Epigraphs which would have been extremely appropriate, did the 'Universal Suffrage' of the Major include the female as well as the male portion of the payers of taxes.

I saw as little about these women as about the men that indicated any preparation for outrage; I felt, on the contrary, more assured by their presence, than by any thing I had yet seen, that the business would go off peaceably. I calculated on that manly gallantry which has so long been the characteristic of the name of Englishmen.

The ensigns of the female bands joined the other standard bearers on the waggon, and, when the hour of danger came, were not among the first to desert their colours.

About twelve o'clock, Mr. Clayton, the Boroughreeve, followed by, I should think, four or five hundred special constables, came into the midst of the multitude: at first there was a considerable degree of pressure upon them by the crowd, but an admonitory cry of 'order, order,' having been raised by some of the leaders, it speedily abated, and, in a few minutes, the special constables seemed no more an object of particular notice than any other persons present. They formed themselves into two contiguous lines, which reached from the wagon outwards, towards a gentleman's house on the south of St. Peter's Field, which commanded a view of the whole scene, and in which, I was informed, the magistrates had taken up their station. I kept very close to Mr. Clayton, during the whole time he remained on the ground on this occasion, anxious to gather from the first authority, the course things were likely to take. I did not lose sight of him for a single moment, until he left the ground to report the state of matters to his brother

magistrates. I can therefore state, as a positive truth, that during this perambulation, the boroughreeve never addressed one word to the people as to any illegality in their meeting, any disorder in their conduct, or anything else whatever, and that he never read anything either printed or written.

When Mr. Clayton left the ground, I looked at my watch—It was precisely a quarter of an hour to one o'clock.

My attention, as well as that of the whole multitude, was now attracted towards the waggon, whence a person, of quite a boyish appearance, had begun the work of speechifying. I had been thrown, by my attendance on the steps of the Boroughreeve, to too great a distance to be able to make out what he said. A report came on the tongues of the crowd, that he was speaking in recommendation of peace and good order, and those about me, universally hailed the intimation with the expressive exclamation 'good, good.' I could not learn who this youth was. I thought at first he might be one of the civil authorities, but I did not hear any body say that he was either a magistrate or had been reading the Riot Act.

The bell of St. Peter's clock struck one. The multitude was now numerous. I made to the outskirts and got upon a wall, from which I obtained a pretty good view of the whole scene. I think there could not, at this moment, have been less than 70,000 persons present.

A breathless expectation seemed now to pervade the multitude. An hour had elapsed beyond the time announced for commencing the meeting, and neither Mr. Hunt nor any of his friends had appeared. The persons immediately around me began to speak aloud their conjectures, 'what if he should have been arrested' said one: 'why, if he should,' rejoined another, 'we must just disperse, and meet again.'

I was listening to these audible cogitations, when suddenly a shout, which made the welkin ring, announced the arrival of the hero of the day. For a few seconds my senses were quite confounded, by the continued enthusiastic cheering and clapping of hands which greeted his approach. I never, in my life, felt so sensibly the force of that bold scriptural figure, 'the floods clapped

their hands for joy.' I managed, but not without a great deal of difficulty, to throw myself into Mr. Hunt's line of approach, in order that I might regain, if possible, the spot I had abandoned, near the waggon. When I got my eyes on Mr. Hunt, I saw him seated in an open landau, along with Mr. Johnson, Mr. Carlile, and some other persons, whom I did not then know. A female, very respectably dressed, was seated on the dickey, and held in her hand the staff of a flag, on which was inscribed, 'Hunt and Universal Suffrage.' I followed close in the train of the landau, till it reached the group of colours. To the waggon, in which they were first stationed; another waggon had by this time been lashed, and some boards thrown across them, in order to give a greater elevation to the chairman and speakers. On Mr. Hunt and his party ascending the rostrum, another general shout of applause rent the air. The orator, taking off his hat, bowed around him very courteously. He now addressed some words, which I did not hear, to those around him. He seemed, by his look and gestures, in some displeasure. Several persons descended from the stage, and I understood it was in consequence of Mr. Hunt's insisting that every body should go down except those who were necessarily there. I remarked one person, with spectacles, making a great deal of bustling effort to get up, who had afterwards serious cause to regret the success of his importunity. He addressed himself to Mr. Tyas, the reporter for the *Times*, who had got a place close by Mr. Hunt; and Mr. Tyas whispered some words to the ear of the orator, who, nodding his assent, the person I allude to was permitted to take a place among the elect. I saw him immediately afterwards with book and pencil in hand, taking notes, and hence concluded that he was, like myself, what is technically called—a Reporter. As soon as the party were done grouping themselves, Mr. Johnson came forward, and moved that Mr. Hunt should take the chair. The motion was carried by acclamation. Mr. Hunt then addressed the meeting, but had not proceeded further than a few introductory sentences, of which I recollect nothing worthy of repeating, except a strong recommendation to the people to be quiet and peaceable, when he suddenly stopped, and casting his eyes towards Peter Street, seemed, for a

moment, as if struck dumb with astonishment. I looked round, as every body else did, in the same direction. A body of cavalry were galloping into the field from Peter Street. I was told by the persons next me, that they were the Manchester Yeomanry. They pulled up under the range of houses on the south side, in one of which, as I have already mentioned, the magistrates were stationed. Mr. Hunt called out in a most emphatic manner to the mob, ‘not to be alarmed, but to stand firm,’ and, taking off his hat, ‘let us give them,’ he said, ‘three cheers.’ Three loud cheers were accordingly given, and, except some persons on the outskirts of the assemblage, who scampered off on the approach of the troops, the whole body of people remained compactly congregated around the hustings. The cavalry cheered in return, waving their swords round their heads. For a moment, I thought they had ranged themselves under the house where the magistrates were seated, in order to be at hand should any event subsequently occur to render their services necessary. As yet, I had seen, I had heard nothing to make the imagination of danger enter into my head. I had a constable at each elbow—constables all around me—in one moment more, however, I was fearfully undeceived. I heard the bugle sound—I saw the cavalry charge forward sword in hand upon the multitude, I felt, on the instant, as if my heart had leaped from its seat. The woeful cry of dismay sent forth on all sides, the awful rush of so vast a living mass, the piercing shrieks of the women, the deep moanings and execrations of the men, the confusion—horrid confusion, are indescribable. I was carried forward almost off my feet, many yards nearer the hustings than I had been. I was running into the centre of the danger, but I could not help it—I had no choice—I had not a moment to choose. I found myself at last pushed up against the landau which brought Mr. Hunt to the field. I know not what rational ground of hope I could have in seeking shelter under it, but under it I went, and coiled myself fast round the pole. A minute more, the cavalry were around me, trampling down and cutting at all who could not get out of their way. I saw one or two persons trodden down close by me; one of them, a constable, to whom I had spoken half an hour before. A poor woman fell senseless at a few

yards distance, under the cut of a sabre. Two countrymen, regardless for a moment of their own safety, hastily raised her up, and brought her forward to the landau, into which they lifted her, and then hurried away.*

A loud conflict of voices now mingled itself with the clashing of swords and the groans of the wounded. I heard some person calling out, 'Mr. Hunt, I have a warrant against you.' Other voices, 'At him, at him.' 'Down with the villains.'—'Down with their colours.' 'Murder, murder.'—'Mercy.'—'For God's sake, mercy.' I was particularly struck by hearing one person crying out in a voice of sore trouble, 'Protect *me!* Protect *me!* I am a privileged person—I am a reporter—I am the reporter of the *Courier*†.' Would to God, thought I, you were only half as safe.

A loud crash, a confused huzzaing, now announced to my astounded ears the capture of the party on the hustings, with their various colours and insignia; I thought this a fit moment for attempting my own escape, and quitting my skulking place, got once more upon my feet. I ran at first, scarcely knowing what I did, towards a row of buildings, called Windmill Street, but there the people, unable to get off, were tumbling over each other in heaps. I turned round, but on every side, the danger seemed worse and worse. The Yeomanry, after demolishing the hustings, were beginning to scatter themselves about, and were hewing down, without mercy, every person, man or woman, that came in their way. I saw more troops of cavalry pouring into the field, and the few avenues there were from the scene of bloodshed, choaked with people striving, many of them in vain, to effect their escape. I did not know what to do—I stood for an instant incapable of decision—I was soon, however, brought to my senses, by one of the horsemen, who came galloping towards me, brandishing his sword. I could not, from what I had seen, and from the havoc I saw going on around me, place the least trust in any remonstrance I could make to the ruffian—self-defence, self-preservation, compelled me to take another course. I

* I presume this was Elizabeth Gaunt, who was taken into custody—confined twelve days, and then discharged.

† This must have been the fictitious reporter of the *Courier* spoken of in the *Morning Chronicle*.

happened, most providentially, to have a brace of loaded pistols in my pocket. I took them out, and called out, in a resolute tone, to the fellow as he came up to me, 'Stop! if you dare to cut at me, I'll shoot you through the body.' He dashed forward, regardless of my threat, and made a bold lunge at me, which I happily succeeded in avoiding. He turned, and was going to have at me again, but, by this time, I had got my pistols cocked, and presenting them, I called out to him, that if he advanced another step, 'I should fire them both through him.' He drew up, muttered something, and then careering round, galloped off, perhaps to find some more defenceless victim on whom to exercise his prowess. I immediately returned my pistols to my pocket, and now hastily directed my steps towards Dean's Gate. I passed several persons lying on the ground wounded, and bleeding. One of them was a young girl, in a white cap, who was all over blood, and moaned sadly. Espying among the additional troops that had come on the ground, a troop of the 15th Dragoons, the thought immediately struck me of throwing myself on their gallantry for protection. I ran straight up to them, and, taking off my hat, called aloud 'Save a fellow soldier.' One of the officers immediately stepped aside to speak to me. I hastily told him, as was the truth, that I was a retired officer in His Majesty's service, that I had no concern with the mob, and that I hoped he would protect a loyal and unoffending subject from outrage. He looked very courteously at me, and calling to one of his troopers, told him to see 'this gentleman,' pointing to me, 'to a place of safety.' I thanked him in as heartfelt terms as I could express, and, placing myself by the side of the trooper, requested him to conduct me through St. Peter's Street. He accordingly rode at a quick pace in that direction, while I kept running by his side. We had great difficulty in getting through the mass of people who were crowding through this gap, and whom the appearance of my escort seemed to inspire with new terrors. I passed, on the way, Mr. Carlile, running without his hat, also the same gentleman with the spectacles, whom I had observed in the outset so anxious to get upon the hustings, much besmeared with blood, and his arm bound up with a handkerchief. We got at

last through St. Peter's Street, when the trooper left me, and in a few minutes I was again in safety in my hotel.

I have now brought this brief narrative to an end, and I declare, before God and my country, that it is, in every word, a true and faithful picture of what fell under my personal observation; whether this may have been the reason which has induced its suppression, and lost me the confidence of my employers, I leave the world to determine.

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AND THE SUBSEQUENT
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1819.

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New Bailey, Manchester, August 27.

THIS being understood for nearly a week, to be the day on which the determination of government, regarding the charge against Mr. Hunt and his fellow prisoners, should be announced to them from the bench, and their final examination be entered upon, a considerable crowd collected near the New Bailey as early as ten o'clock. About eleven, those who had any particular favour with the officers, or who came to give evidence, were admitted into the Court.

Meanwhile the crowds collected without, and filled the whole space between the bridge, the prison, the governor's house, and the river. A strong party of soldiers had previously been admitted at the gate of the prison, and a guard appointed without. It being the custom to exclude the multitude, who usually occupy the body of the Court, behind the bar, till the magistrates have taken their seats on the bench, there was a great pressure towards the gate for admission as soon as it should be opened. The civil power thinking they saw some tendency to tumult, in the immense body that surrounded the doors, requested, as we understood, that the military might be at their post, ready to afford assistance in case of danger. At a quarter past one, the magistrates entered the Court, and an agitation of interest and curiosity took place for the approaching business. Only six occupied the bench. Their names were, Mr. Norris (chairman,) W. Hulton, R. Wright, W. Marriott, T. W. Tatton, Esqrs. and the Rev. C. W. Ethelstone.

The prisoners were then ordered to be brought up, and soon appeared in the dock. Mr. Hunt appeared first, and the rest in succession, till the space allotted them was so crowded, that they pressed upon each other. Their names were called over, and answered to in the following order:—Henry Hunt, Joseph Johnson, J. T. Saxton, John Knight, James Moorhouse, Samuel Bamford, John Healey, George Swift, Thomas Taylor, Robert Wilde, and Elizabeth Gant.

The Chairman thus began his address—"Henry Hunt, Joseph Johnson, and you severally, whose names have been read over, you have been remanded on a charge of high treason." Here there was so much noise, from the agitation of the crowd behind the dock, the living mass not having yet gained the consistency at which on occasions like this, it is usually silent, that the magistrate

could not be heard. Mr. Hunt interrupted him, saying, "I cannot hear; you must command silence, so as to be heard. There was more order at the meeting the other day." The Chairman called out "Order." Mr. Hunt, "I must beg to hear; the matter seriously concerns us; you must be heard." A short pause ensued; when, comparative silence being obtained, the Chairman again commenced his address to the following purport:—"Henry Hunt, Joseph Johnson, and you all, severally, whose names have been read over, when you were last called up into this Court, you were remanded on a charge of high treason; on remanding you, you were informed that the whole of the evidence had been sent up to London, to be laid before the law officers of the crown, and in the mean time you were to be detained. It was not until this morning, that a communication was made from government, stating that the law officers of the crown, had for the present, abandoned the higher charge. That communication was not made to me; yet there is a gentleman present (Mr. Bouchier) has come with orders to proceed upon a less charge. The charge of high treason is not yet abandoned, but government proceeds now against you for a minor offence."

Mr. Hunt.—Is the charge of murder then abandoned? I understood, from a magistrate, I was remanded until the coroner's inquest had sat, on a charge of murder as well as treason.

Mr. Hulton, from the bench—I did not tell you so.

Moorhouse.—This then turns out to be a farce.

Mr. Norris.—Moorhouse, I shall feel it my duty to remand you, unless you conduct yourself properly.

Mr. Milne, the clerk to the magistrates, then called over the names of the witnesses, whose written depositions he held. The prisoners were requested to attend to the depositions, and told they had an opportunity of questioning the witnesses concerning them. On putting the book into the hand of the first, Hunt desired he might be examined alone, and the rest ordered to leave the Court. Mr. Bouchier said, he should not object to this. The first witness, whose deposition was proposed to be read, was John Shawcross, clerk to the police. Mr. Hunt asked his name, and demanded that he might be examined in open Court, before he heard his former deposition read. The magistrates objected to this demand, and overruled it. The deposition was read. This witness deposed to having purchased at the Observer Office, on the 31st of July last, a paper called the Observer, containing the following notice of the first intended meeting, of the 9th of August:—

" Manchester Public Meeting.—The public are respectfully informed, that a meeting will be held here on Monday, the 9th of August, 1819, on the area near St. Peter's Church, to take into consideration the most speedy and effectual mode of obtaining radical reform in the Commons' House of Parliament; being fully convinced, that nothing less can remove the intolerable evils under which the people of this country have so long groaned, and do still groan; and also to consider the propriety of the 'unrepresented inhabitants of Manchester' electing a person to represent them in Parliament; and the adopting Major Cartwright's bill.

" H. Hunt, Esq. in the Chair.
Major Cartwright, Sir Charles Wolsely, Mr. Charles Pearson, Mr. Wooler, and Godfrey Higgins, Esq. have been solicited, and are expected to attend.

" William Ogden, 26, Wood Street," (and ten others.)

" Chair to be taken at twelve o'clock.

" Manchester, July 23, 1819.

" The boroughreeve, magistrates, and constables, are requested to attend.

" On the same day, after the meeting, there will be a public dinner, at the Union School Rooms, George Leigh Street.—Dinner on the table at five o'clock.

" Tickets, 10s. 6d. each, including all expenses, may be had at Mr. Wroe's, bookseller, Market Place."

The following advertisement for the second meeting, on the 16th, was likewise read, with the omission of the names of the requisitionists:—

" Manchester Public Meeting.—A requisition having been presented to the boroughreeve and constables of Manchester, signed by above 700 inhabitant householders, in a few hours, requesting them to call a public meeting, 'To consider the propriety of adopting the most legal and effectual means of obtaining a reform in the Commons' House of Parliament,' and they having declined to call such meeting, therefore the undersigned requisitionists give notice, that a public meeting will be held on the area, near St. Peter's Church, for the above-mentioned purpose, on Monday, the 16th instant.—The Chair to be taken by H. Hunt, Esq., at 12 o'clock.

" Major Cartwright, Mr. Wooler, Mr. Pearson, Mr. Carlile, Dr. Crompton, Mr. Edward Rushton, Mr. J. Smith, Mr. T. Smith, will be invited to attend this meeting.

" Manchester, August 6, 1819."

The deposition continued that these papers were extensively circulated in Manchester; the witness then produced the well-known prohibition of the first meeting, of which the following is the copy:—

" New Bailey Court House, Saturday, 31st, 1819.—Whereas it appears by an advertisement in the Manchester Observer paper of this day, that a public and illegal meeting is convened for Monday, the 9th day of August next, to be held on the area, near St. Peter's Church, in Manchester: we, the undersigned magistrates, acting for the counties palatine of Lancaster and Chester, do hereby caution all persons to abstain at their peril from attending such illegal meeting.

" W. Hulton—J. Norris—J. Entwistle—W. Marriott—T. W. Tatton—L. Holme—R. Marsh—T. Thafford—R. Fletcher."

This was the whole of the evidence of Shawcross.

Hunt.—Have I now the liberty of examining the wit-
nesses? Yes, certainly

Hunt to the witness.—Where is your residence? No. 4, Blossom Street, Salford.—What is your profession, Sir? I am clerk to the Police office.—Have you any other employment? No.—You purchased these newspapers, did you? Yes.—What is the date of the first? 31st July.—Do you know who inserted these advertisements?

The Chairman here interfered, and said that this was not evidence.

Hunt.—Who urged you to purchase the paper?

The Chairman again interfered, and protected the witness from answering the question.

Hunt.—Then am I to understand that the witness is not allowed to answer the question?

Chairman.—The Court does not think it relevant, and will not allow the witness to answer it.

Hunt.—You purchased the other paper of the 14th August?

The witness was not allowed to answer the question.

Hunt.—Your name is on each of the papers. Who directed you to put your name there?

The Court again interfered, and would not allow the witness to answer the question.

Johnson, one of the prisoners, to the witness—Do you take in these papers for any particular purpose?

The witness was not allowed to answer the question, the Bench declaring, through its Chairman, that it was sufficient for him to state that he had purchased it and marked it with his name.

Matthew Cowper's, (an accountant), another witness's deposition, was then read at the table. He deposed to the nature of the meeting, gave a history of the proceedings, and produced his notes of the commencement of a speech purporting to be Mr. Hunt's. So far as we could collect it, it did not differ materially from what has been published in the newspapers. Witness further deposed, that he attended at 12 at noon; that by that time half of the assembly had collected; that most of the persons who composed it carried large sticks, more like flails than walking-sticks; that they advanced in military array, with flags and music: the witness here enumerated several flags and the inscriptions upon them: that one of these flags had upon it "No Corn Laws," and on the other side a bloody dagger. The flags were in all 16, and he saw 5 Caps of Liberty.

When the deposition had been read, the witness who swore it was examined by Mr. Hunt.

Where do you reside, Sir? In Manchester.—Would you favour me with your particular address?

The Bench, through its Chairman, again "interfered, and would not allow the witness to answer the question. It was sufficient for the witness to declare that he lived in Manchester.

Hunt.—I demand, as an act of justice, to know the residence of this man. It will be observed, that he is a very material witness, and that his evidence may deeply affect us all. I am entitled to know where to find him, that if, after the trial of the question, it shall be found there was no ground for this charge, I may have my remedy against him by prosecuting him for perjury, or obtaining redress in some other way. I demand therefore, as a right, to know his residence.

The magistrates consulted for a minute, and then decided against complying with his demand, through their Chairman, who said that there was no use for Mr. Hunt to use intimidating language: it was not necessary to reiterate the word *demand*, to obtain that justice to which every British subject was entitled, and which might be obtained by a simple request. He further stated, that he did not think it was treating the Court with sufficient respect to talk of demanding, as there was no disposition to refuse what was right, and no chance of obtaining what was wrong, by the use of strong terms. The request of the prisoner would go as far as his demand. The Court had considered the nature of the question put to the witness, and did not think it necessary that he should give his particular address; the description that he lived in Manchester, and was an accountant, was quite sufficient.

Mr. Hunt begged leave to reply to the observations of the Chairman.

Chairman.—The Court will not be replied to.

Hunt.—I was merely going to state that I had no intention of offering any insult to the Court—

Chairman.—The Court takes it for granted that you did not, and requires no apology.

Hunt again began with stating—I offered no insult to the Court; when the witness refused to answer the question, I appealed to the Court, and requested that he might be ordered to answer. I put this question in the shape of a demand, because I will accept of nothing as a favour. (Then addressing himself to the witness,)—Now, of what profession are you?

Witness.—I am called an accountant.

Hunt.—Is that your only occupation?

Chairman to witness.—Don't answer that question.

Hunt.—Were you a special constable on Monday the 16th, at the meeting?

Chairman to witness.—Don't answer that question.

Hunt, with great vehemence and apparent surprise.—Not answer that question! Have you any other employment than that of an accountant? Are you not sometimes employed as a short-hand writer?

Witness.—I sometimes take reports of speeches.

Hunt.—For the public newspapers, or for your own private amusement?

Chairman to witness.—Don't answer that question.

Hunt.—Then you say that you took my speech on the day of the meeting; did you take it in short-hand?

Witness.—I took extracts from it on the ground, and afterwards wrote it out at length. I took only the leading words. I do not mean to swear to all the words.

Hunt.—Are you sure that you did not misplace the words, putting some of them which you had in one sentence into another?

Witness replied in the negative.

Hunt.—How did you make out the remainder of the speech from these extracts and leading words of yours?

Witness.—I filled it up from memory.

Hunt.—When did you write out this speech from memory?—In the evening.

Hunt.—At what time was it delivered?—About one.

Hunt.—At what hour, then, did you reduce your *short* notes into *long* sentences?—About five o'clock.

Hunt.—Be so good as to state how you were employed in the interval.

The Chairman here interfered, and would not allow the witness to answer the question.

Hunt remarked with considerable asperity on this interference, saying that it was extremely important that an answer should be obtained. The witness had stated, that a very considerable interval had intervened between the delivery of the speech, and the preparation of his version of it; and that in the mean time he had intrusted a considerable part of it to his memory. The retentiveness of his memory would of course be affected by the importance of the other events in which he had been engaged, and therefore it was but just that he should state how he had been employed.

The Court over-ruled this demand.

Hunt.—You state that you saw certain flags and colours, and that there was one of them with a bloody dagger; now, what else was there besides the bloody dagger?—I observed nothing else.

Hunt.—Did you observe no figure of Justice, with the scales in one hand, and a dagger, which you call a bloody dagger, in the other?—Witness replied in the negative.

Hunt.—Well, will you swear there was nothing else?

Witness said that he could not swear to there being nothing else.

Hunt.—Now, you said, that you saw military array;

Witness.—Why, I mean people marching in regular order, as regiments march.

Hunt.—Have you no benefit societies in Manchester? and have you not Orange clubs in Manchester?

Witness.—I never heard that there were Orange clubs in Manchester.

The Court here interfered, and said that these questions were quite irrelevant. Hunt, on the other hand, contended that they were quite to the purpose; for when the witness spoke of regular order being military array, it was proper to call to his mind instances in which the former might occur without the latter. (Then addressing himself to the witness, he asked)—Did you never see benefit clubs marching with music and banners?

The witness answered in the affirmative.

Hunt.—Have you not seen them march in regular order?

The Court here interfered, and declared the question irrelevant. The Chairman mentioned, that, in interrupting the prisoner in these various questions, he and the other gentlemen acted on their best discretion.

Hunt, with great courtesy.—And, gentlemen, I must bow to that discretion. (Then addressing the witness,) You stated that the sticks you saw in the hands of the persons who came to the meeting were more like threshing-flails than walking-sticks; pray what do you mean by a flail? and what is the difference between it and a walking stick?

The magistrate here interfered, and prevented the witness from answering the question.

Hunt.—I was anxious to obtain an answer, because, had I been allowed to go on, I should have drawn from the witness that there was nothing more common to the country-people than to use their old flails for walking-sticks. (Addressing himself to the witness,) Pray how were they held?

Witness.—They were shouldered like muskets.

Many other questions were put to the witness, but from the rapid manner in which the conversation was carried on, and the little importance of some parts of it, it would be impossible, and indeed superfluous, to report it.

The deposition of another witness,

Richard Oven, a pawnbroker, was then read. He deposed to the military array in which the different parties advanced to the meeting: he deposed to the having seen Hunt in the cart, to the having heard a command given by one of the party in the cart “to league together and to keep their enemies out,” with several other circumstances. The witness then appeared, to be examined on his deposition.

Witness.—On the field.

The Clerk here interfered to correct the witness, and was supported by the Chairman, telling him that he could not have sworn it on the field. Hunt objected, in an animated manner, and in very indignant terms, at this interference. “I want the answer of the witness from himself, and not from you. You are interfering, to correct him, and to set him right in a matter which he had already sworn.”

The Chairman endeavoured to explain, and to show that the witness must have misapprehended the question.

Mr. Hunt continued to declare that it was most indecent in the clerk to interfere.

The Chairman said it was well done on the part of the clerk to interfere.

Mr. Hunt bowed to the Court, and continued his examination. You said you made this deposition on the field?

Witness.—Yes; I made the first part of it on the field. I swore on the field that I saw you entering it in a carriage.

Hunt.—You did not swear the whole of this deposition then.

The magistrates here interfered, and said that it was not at all necessary for the witness to say when the deposition was first sworn, as it was supposed to be sworn to now.

Mr. Hunt commenced a reply, when the Chairman interrupted him, by telling him, that the Court would hear nothing more upon the question. The Chairman at the same time desired that the deposition might be read over a second time.

Hunt.—No; I strongly object to the refreshing of the witness's memory by hearing his deposition read over a second time.

Chairman.—The Court intended it as a favour to you.

Hunt.—Oh my memory is very good; I seldom find that it fails me. I beg that on the present occasion I may not be indulged: (then addressing the witness)—Did you not say that the men came in military array on your first deposition? No; I did not observe it.

Hunt.—When did it occur to you to state these facts upon oath?

Witness, of his own accord, refused to answer this question.

Hunt appealed to the Bench, saying, “Here is a witness who refuses to answer a material question, what shall I do with him?”

The Court decided that witness was not bound to

answer this question. Hunt on this, as on several other occasions, requested Mr. Pearson, his solicitor, to take particular notice, and to mark down what had occurred.

—Did you see me in the car?

Witness would not answer the question.

Mr. Hunt again begged Mr. Pearson to mark down that it had been overruled by the magistrates, that a witness was bound to give his residence, and to furnish a knowledge of where he could be found in case of a prosecution for perjury being instituted against him, founded upon the evidence to which he had sworn.

Hunt.—What do you mean by “military array?”

Witness.—I mean marching order, with flags flying and music playing.

Hunt.—What did you consider as the dreadful part of the array?

The witness was desired not to answer the question. The Chairman observed, that it was not necessary to be so particular now; all that the magistrates wanted was to know whether there were grounds for committal. Such an examination might be entered upon at his trial, if he thought it conducive to his interest. “Then,” said Mr. Hunt, “with great readiness, I am to understand that my trial is decided upon, and that I may be committed without examination and without evidence.”

Hunt.—Had these imaginary soldiers any muskets?

Witness.—No; they had things nearly as large as muskets.

Hunt.—What did they do with them?

Witness did not observe any thing particular.

Hunt.—Did they shoulder their clubs?

Witness.—No; I observed no shouldering.

Hunt.—Mark down that, Mr. Pearson; that is very important.

Saxton asked if he should know the man who desired the multitude to keep their enemies out.

The witness replied in the negative.

One of the prisoners.—Did you observe Mr. Hunt speak to any of the parties who, as you said, were marching in military array?—No; I do not.

The deposition of James Olatt, constable, was then read over. It related to the military array, and to the presence of the so called Dr. Healey, at the head of a party marching to the field.

Hunt.—What are you?—A constable and a beadle.

Hunt.—Did you earn your livelihood in that way?

Witness answered in the affirmative.

Hunt.—Did you observe any clubs shouldered?

Hunt.—Did you observe any insult offered to any person by the marching parties?

Witness.—No; I neither saw nor heard of any.

Healey, a mean-looking insignificant man of low stature, put a very immaterial question to the witness, which the magistrates would not allow him to answer.

Bamford likewise asked him questions of some consequence as they affected himself: Did you see me upon the hustings?—Yes; was the reply.

Bamford.—No where else?—No; said the witness.

The deposition of Robert Derbyshire, the younger, was then read. He deposed that he attended the meeting, and saw George Smith active in arranging the crowd. He deposed also that he saw the boy, Robert Wylde, on the hustings.

Mr. Hunt.—Are you a constable? Did you see the people advancing in military array?

Witness said he observed them coming, but did not notice their array.

Hunt.—Did you run to the magistrates and express your alarm at the state of the meeting?

Witness.—No; I had seen similar meetings before.

Swift, an ingenious looking man, with a strong Lancashire dialect—You say that you heard me address the meeting; what did I say?

Witness.—You said, “Fall back, league firm together, and keep your enemies off.”

Hunt.—Did you see the Yeomanry Cavalry come in at this time?

The witness was desired not to answer the question.

Moorhouse.—Did you see me on the hustings?—Yes.

Moorhouse.—Mark down that, Mr. Pearson.

John Barlow, another witness, deposed to the presence of Elizabeth Gaunt upon the cart.

The prisoner came, or rather was carried, from behind the dock, where she had a seat, to the front of the bar to be identified. She looked pale, emaciated, and almost fainting from weakness, in consequence of the wounds which she had received at the meeting, and her subsequent solitary confinement. Being unable to support herself, the magistrates desired a chair to be brought: had she been sent to Lancaster to stand her trial, it is certain that she would not have survived her journey. On a proposition being made to alter the deposition of the witness against her in Court, Mr. Hunt strongly objected to it, and when the Clerk was proceeding with the alteration, assured him he would call him as a witness.

Mr. Milne, the clerk.—You had better not, Mr. Hunt, I shall be against you.

Mr. Hunt, with a smile of contempt, and in a very significant tone—"I have no doubt of that Mr. Clerk: mark down his words, Mr. Pearson." Then addressing the witness, When did you sign that deposition?

Witness.—This forenoon.

Hunt.—Did you see Mrs. Gaunt commit any offence?

Witness.—No; I only took her out of the carriage; she was then fainting.

Hunt.—Did you not think it your duty to protect a defenceless woman?

Witness.—Other constables came up and took her from me.

The prisoner then gave her own statement. She said that she was amongst the crowd at the meeting; that in the confusion some one put her into Hunt's carriage, but she did not know who put her there; she had no right to be in the coach, but was put in by two persons for safety. She fainted away, and when she came to herself she found she had got a blow. She threw herself afterwards into a private house, and remained there for some time, and might have got away had she chosen, or had she apprehended that she was committing any thing illegal.

The Solicitor of the Crown said, that as the evidence was very slight against the prisoner, he would not press her prosecution.

The Chairman announced this circumstance to the prisoner; and stated to her, that as the prosecutor determined to bring no evidence against her, the Court had great pleasure in ordering her immediate discharge.

Hunt, with great emphasis and apparent astonishment, exclaimed, "discharged for want of evidence, after 12 days' solitary confinement!"

When the whole of the evidence had been concluded, Mr. Hunt, addressing the Bench, desired to know whom he was to consider as the prosecutor. The Chairman replied, the Crown. "What," says Mr. Hunt, "the Crown in person?" The Chairman said the Solicitor for the Treasury is here to prosecute in the name of the King. Mr. Bouchier has been sent here by the Crown.

Hunt.—Is he the prosecutor? I thought I heard him apply to discharge Mrs. Gaunt, and prosecute the rest of the prisoners for a conspiracy. I wish to know some responsible person to whom I may apply for redress, in case this prosecution against me should appear to have originated in unworthy intentions.

Chairman.—I understand that the several witnesses who have deposed against you, are responsible for the different facts for which they have deposed. The king's name is rightly and ordinarily used in such prosecutions.

Mr. Hunt.—I always thought that there must be some prosecutor, although the prosecution run in the king's name.

The Chairman.—The crown prosecutes: if there be any particular prosecutor, it must be the Attorney General. Then, addressing the prisoners, he asked them whether they had any thing to say in their defence.

Mr. Hunt, then addressing the Bench, spoke to the following effect:—I know that I am now addressing the

same magistrates who took the first depositions, and issued the warrants against me; but after that evidence, and the amended evidence has been read, it is for them, sitting in the situation which they now occupy, to administer justice. I hope, and do not doubt, they will dismiss from their minds all prejudice, and act upon the evidence. They had heard the various depositions which had just been read, and the answers of the witnesses who had been subjected to examination in open Court. It would be observed, that they all agreed in certain points, but differed very materially in others; and that when examined regarding the import of words, their meaning was far from being precise or clear. Some witnesses say that those bodies which came from the country came in military array, but they could not explain what they meant by military array; they could not state whether they marched in slow or quick time, or whether they possessed the characteristic of a military march. Some say they came with sticks. One says they were so far in military array as to have clubs at their left breasts, similar to muskets; another witness as positively denied his observation of the circumstance; but all agree that none of them did any act to intimidate or offend. Can the magistrates say we should be committed on such evidence for a misdemeanour, after eleven days' solitary confinement? Is not this a sufficient punishment for any offence that we may have committed? They should consider, that the eyes of all England were fixed upon this matter, and waited with anxiety its termination. It has gone far enough, and ought here to end: I ask nothing for my past sufferings—I demand no redress for the treatment I have endured—I stand here to ask, whether you will allow agitation in the public mind still to go on, or allay it by removing the cause? With the most perfect conviction that I have acted rightly, I am yet doubtful of others entertaining that conviction: the country is doubtless in an agitated state, and will be so till this question is settled. Are you on such evidence prepared to send us back to solitary confinement? [The Chairman said, No.] One of you now on the bench accused me of murder; another of the magistrates, whom I do not now see, told me that the guilt of all the blood which was shed would lie at my door: after thus being held up as a murderer and a traitor; after being remanded on a charge of high treason, without a shadow or pretence of evidence to support it, I appeal to you to lay aside all private feeling, to forget, as far as you can, the scenes in which you have acted, and say whether we are guilty of any offence, or, if we are, whether we have not suffered enough.

In uttering this last sentence Mr. Hunt evinced a considerable ardency of manner, which called forth great applause from the crowd behind. The Chairman indignantly commanded silence, and declared that if any tumult took place, he should be obliged to clear the Court, and commit the parties. Mr. Hunt declared that on his part there was no attempt to excite tumult: then turning round to the crowd, said, "The man who makes any noise or disturbance in this Court with the belief that he is honouring me, I shall consider as my personal enemy. (*Hear, hear, from the Chairman.*) I cannot forget that I have been remanded on a charge of high treason; I cannot forget that I expected to have stood here to-day on that most serious charge: it has, however, been abandoned, and I submit to you, whether there be any tittle of evidence to support the charge of conspiracy. Many of these prisoners, who are accused of having joined with me, I never saw till I saw them in this box. I admit that many of them, as well as myself, attended the meeting for the purpose of taking part in its proceedings. I admit that I attended it to conduct those proceedings, believing that they were perfectly legal. I considered myself then as performing a necessary, but a painful duty. I had before carried applications made at similar meetings to the Secretary of State, for the purpose of being laid before his Royal Highness. To some of these applications I had an answer from the Prince Regent himself through the medium of his Ministers, and to none of them was it objected that the meeting was illegal at which it was voted. One of these applications was the very paper which was to have been submitted to the meeting of the 16th. I did not attempt to follow, nor was it the opinion of those who took part in the proceedings or the meeting that we ought to attempt to follow, the example set by Birmingham in the election of a representative. I had written to Mr. Johnson to this effect long before the intended meeting was prohibited in Manchester: the Royal Proclamation had declared it illegal, and though I did not think it illegal, I thought it a foolish and absurd scheme. It was my opinion, that to follow such an example at such a time would have been unjust to the people of Manchester—that an election should not have been proceeded in till its inhabitants had three months' notice. I have declared that I would not have put such a question as Chairman, long before the first meeting was prohibited. I could bring testimony in support of this assertion of as respectable men as are to be found in Manchester: private letters with postmarks, which could not be falsified, can be

which were intended to be voted at the meeting of the 16th would have removed all doubt on this subject: they, indeed, I have been told, have been lost in the confusion which ensued; but the most respectable persons can be brought forward, who will prove that it was intended first to pass a strong vote of censure for refusing to present the petitions of Manchester and Stockport, and then to make a solemn appeal to his Royal Highness the Prince Regent on the distressed state of the country, and on the necessity of immediately reviving the connexion between the people and the throne. I cannot trust my feelings with the description of what occurred after the dispersion of the meeting: it would be much better if the transactions of that day were for ever buried in oblivion, and blotted from the history of our country. But I ask you, will you commit upon such evidence as that which you have heard? The country is at present in a state of great agitation; and will you, by protracting this prosecution, throw down the apple of continual discord?

Here the Court interrupted Mr. Hunt, and the Chairman addressing him said, "Your language is now improper. No threat or intimidation ought to be held out. We have only to attend to our duty, and leave the care of the country to higher orders. If the country were in tenfold the agitation which you have described, I and my brethren on the bench would do our duty."

Mr. Hunt, in continuation, said, "This intimation shall not be thrown away upon me; I did not mean to intimidate you; I did not mean to ask for any thing as a boon; I demand only justice, and would not accept a favour. I certainly did ask the governor, as I had been accustomed all my life to fresh air and exercise, that I might be permitted to take a walk in the garden; but the moment he told me that Mr. Johnson had asked this favour of the magistrates, and had been refused, I refrained from any further application. I would have cut off my right hand sooner than have gone and done it."

Here the Chairman explained the circumstances under which the refusal to Johnson had taken place. Johnson had certainly made an application to be permitted to walk out; and he would have obtained permission, if a respectable surgeon, who was applied to, had thought it necessary for his health.

Hunt resumed.—I must say I suffered much bodily pain from the blows from the batons of the constables, and the sabres of the Yeomanry. They are visible. I scorned to tell the Doctor of it. My health certainly has been preserved, instead of being injured, by my apprehension and confinement: the exertions I should have made, and the anxiety I should have felt, to conduct the proceedings, and to preserve the order of that meeting, would have affected me for years. Since my confinement I have slept on a bed which I would not have put under my servants: but I thank God," said he, with great fervour, "that I have slept soundly; and if I have suffered any thing, it has been from commiserating the state of my fellow prisoners, and from the recollection of those poor mangled creatures who have been brought to death. When I meet for accommodation, I have nothing to say against the gaoler.

Moorhouse.—As the law presumes persons innocent until convicted, I beg to say we ought to be used as well as possible.

The Magistrates then withdrew. Mr. Bouchier was shortly afterwards going towards the magistrates' room. Hunt said to him, I hope you are not going to the magistrates unless my solicitor goes. The solicitor said, no. Ah, rejoined Hunt significantly, you have been there already.

On their return, Mr. Norris said—"Henry Hunt, and you all: we sent for Mr. Bouchier in order that we might again carefully peruse the depositions. It is a most painful duty to me to commit you for a conspiracy. We can, however, lay our hands on our hearts, and say, "We have done our duty." As to the charge of conspiracy, though you might not all have been together previous to the meeting, yet in the eye of the law, all those who commit separate acts, tending to one illegal object, are guilty of that crime. Coupling the two meetings together, taking into consideration the manner in which the last was assembled, with such insignia and in such a manner, with the *black flag*, the *bloody dagger*, with "Equal representation or death."—(Hunt—"No one has said the black flag had a bloody dagger.")—They came in a threatening manner—they came under the banners of death, thereby showing they meant to overturn the Government. There could be no free discussion where that flag was unfurled. The charge now is, "that of having conspired to alter the law by force and threats." It is an illegal matter and sufficiently made out, and calls upon us imperatively to commit you to Lancaster-castle. On account of the seriousness of the charge, we shall require you, Henry Hunt and Joseph Johnson, to give bail, yourselves in 1,000*l.* and two sureties in 500*l.* each; and all the others, themselves in 500*l.* and two sureties in 250*l.* each.

The prisoners then left the bar. Johnson and Moorhouse immediately procured bail, and were liberated. Johnson was attended towards Shude Hill, by an immense multitude, shouting and applauding. He passed Deansgate, supported on the shoulders of the people. Moorhouse was equally the object of popular favour. We understood that notices of bail were given for Hunt and Knight. Hunt complained when he was asked by the magistrate in Court, whether he had provided bail, that he was not allowed to be visited by a respectable solicitor in town whom he had sent for some days ago. The Chairman mentioned that he would now be sent for, if he desired it. "No, no," said Mr. Hunt, pointing to Mr. Pearson, "here is now my solicitor." From this circumstance, and from knowing that two individuals, whose securities were unimpeachable, had offered to become his bail, we concluded that we should see him immediately out. After consulting, however, with his solicitor, he had taken a different view of the matter, and we were told that he said to the magistrates that he would not give bail, even though no more than a farthing were required. In consequence of this determination, and the near approach of the Assizes at Lancaster, he was sent off to the castle at this place, at six o'clock in the evening, in a coach, guarded by a troop of thirty of the 15th Hussars. Knight, Saxton, Bamford, Wylde, Swift, and Healey, were despatched in the same carriage, (a stage coach,) and under the same escort. The shouts and huzzas of the people were even greater than when he entered on Monday, the 9th of August. Thus the charge of high treason, and the folly of the magistrates, have conferred additional popularity upon them.

ANOTHER PEAL

ANSWERING ONE

RUNG ON THE 11TH OF MAY, 1835,

AT

MERCHANT TAILORS' HALL.

LONDON :

PUBLISHED BY HENRY HOOPER,
13, PALL MALL EAST.

Price One Penny.

1835.

LONDON:

IBOTSON AND PALMER, PRINTERS, SAVOY STREET, STRAND.

ANOTHER PEAL,

&c.

You have had published for one penny a speech made by Sir Robert Peel, one of a set who are used to laugh at cheap knowledge, and who used to make acts of parliament against speaking in public. He assures you that he knows the difference between keeping holyday and saying his task; that he has great dislike to rewards for public labours, and shudders at the thought of "place." This is the beginning of his speech, as you will find in page 3 of that penny pamphlet. But you must not skip the two pages and a half preceding; you will see there how an orator is led to account for the feelings of modesty that overcome him in rising before his auditors. In his case, as stated by him, it was because he felt, or was assured, that they were the only portion of the public who entertained sound opinions; they were, as he expressed it, the heart which is to impel the life-blood of their opinion to the extremities of the British empire. Don't you wish you had been one of his audience? But perhaps you have a vote in the election of members for parliament. Don't give it to any candidate who is less polite to you than Sir Robert to the company he then addressed, regretting for them that they did not compose a borough returning a favourite to a seat in parliament.

Well, four pages having been got over in complimenting his audience, and insisting upon his own modesty, he, (at the top of page 5,) begins to be proud of his alliance with the Duke of Wellington. Now, the Duke of Wellington set up a Bourbon

king; Admiral Napier lately has established a queen of the Braganza family. Napier's work is standing, Wellington's is down. So Timour the Tartar worked at the calling of a conqueror; but his work was soon undone. Sir Robert's fame, then, is to stand between that of Timour and that of Wellington. I would not wrong, however, his Grace's title with posterity. But, since the peace, Peel has been so busy in giving currency to new pretensions, and new pretensions to the currency; and we have been so engaged in getting out of harm's way, while he was at his mischievous pranks, that we have scarcely had a quiet afternoon to talk over the glory of the British arms. If we find that they are the subject of fear to those who bear arms on the continent against free constitutions such as ours was, and may become again, then we may consider our eight hundred millions as so much given away to charitable purposes. But as to "the greatest of conquerors," what is that to Sir Robert? Old Lilly the conjuror, who saw his art was in need of support, published a book, to show up the great generals who had come to him to learn their fortunes. Why, Wellington will go down side by side that of the learned doctors of Oxford, and be quoted in our school books, just as much as Sir Robert's will be quoted with the name of Wellington. "The greatest of conquerors!" Sir Robert wanted to cuff Joseph Hume and Doctor Lushington. He might have come off conqueror, and if he go on at that rate, there may be conquests in store for him.* He may also be a duke, and then there will be two names in the same court roll. They have been together in the "Times." See the file of that journal in 1828. In the month of October, that consistent Mr. Barnes, or patriotic Mr. Walters, say, "*As for Wellington and Peel, there are not two geese on a common*" more unfit to be statesmen. There is historical fame for you, Sir Robert! But don't be modest; be what his Grace is; on with you to the peerage: but beware!—in the House of Lords, there is our lost Brougham: try an argument with him; and if you beat him, you shall go down to posterity with the greatest of conquerors, in that line, but not with Wellington. No, his civil honours he can scarcely keep in the tether of his own name. He would tax the public voice to call him great at Oxford and in Downing

* It—the letter for an explanation, (the "explanation" is next step before the "satisfaction" which is to be written in lead,) was, in consequence of the Doctor, in speaking of a would-be-statesman, using the simile of a thief. Why, our blessed Saviour compares his coming in judgment to that of "a thief in the night." Oh! these Jews! Peel, Israeli! Who next to "disparage glorious arms!"

Street; yet his greatness is weeping for him on the plains of Waterloo. But, Sir Robert, what has become of your modesty and of your indifference to public honours? You not only are not content to receive the bows of the servants of your patrimonial establishment—you not only would be a secretary of state, but the commander-in-chief, as fellow to the greatest of conquerors!

Well, pages 5, 6, and 7, go off in a business-like style. You have heard of the Carlton Club. That is a very rich society. Not a club to read newspapers, but to make them. The "Times" speaks just as they would have it. There are to be little Carlton Clubs all over the country; they will make news for their neighbourhoods; they will frighten the old women worse than the comet; they will conjure up the Pope and "Old Noll;" they will have a purse whenever their neighbourhood becomes the polling district; they will be handing addresses for your signature, when the polling is over, and the majority the wrong way for them. But I can't tell you all they will do; you need only see what has been done; the gagging acts, the excise boards, the scurrilous Sunday libel-papers, and the war which cost eight hundred thousand millions, all came out of—what was I going to say?—their purse? No. But Sir Robert, in pages 5, 6, and 7, just advises them to use THEIR MEANS, so that the elections shall be carried to the *old* interest. He tells them that all the power is now in the House of Commons, and not in the King, nor in the Peers. To be sure it is so, and has been so, long before the Reform Bill, or would Peers have paid such premiums for the command of seats in St. Stephen's? Now, what must Sir Robert have thought of his audience and their opinions, when he found proper to teach them such a hackneyed truth? But what do you think the Carlton Club will say to him? Blockhead: Couldn't he have kept that for private ears? Is he not a fit leader for his party? You know them. The Knatchbulls, the Ellenboroughs (of this generation,) the Castlereaghs, the Hardinges! He has put us upon our guard. He unguardedly used the watch-word of his own party. Perhaps the reporter of his speech has made the blunder. He should have said, that the power is in the "Commons." But, what is put down he has said, it was no mistake. See, at bottom of page 7, he explains himself; he says to his friends: "Do not alter the Reform Bill, no work with that. Cry out the whole Bill, and 'nothing but the Bill.'" He "prophecies" that the Reformers will make the first alteration in the Reform Bill. You see, he goes on blundering:—he forgot he was not in the Committee-room of the Carlton Club. We want no prophets to tell us, that the Commons have been cheated of their power lately at the hustings. By the Reform Bill, power

was to have been given to the Commons. We looked for men walking up to vote in South Devon, and we found just what the "Times" prophesied, when the Tories brought in their amendment on the Reform Bill, splitting the counties into smaller districts. The "Times" of January, 28, in 1832, and a few days preceding and following that date, gives an insight into the intimidation and bribery practised in small districts. Parsons and Squires will lend themselves to be tools to great men; it is a pity! But the Commons of England are not yet confined in that corner. We can make the poor fellows of South Devon free men by Act of Parliament: the parsons and squires of little estates, in a little county, are no match for the majesty of the British nation. We do not pretend to have the gift of absolute wisdom, but we have a steady working hand; we will make our House of Commons try again at the Reform Bill, if necessary; especially if another South Devon be found in the country, where intimidation and bribery boast they are a match for all but the Ballot.

Well, at page 8, Sir Robert supposes himself seated in *his* House of Commons. What will he do there? He only tells his friends, the Merchant Tailors, what he will not do. I beg you to settle down in attention at this part of his book. It is a pity these last three pages are not printed off separately, it would form about one fourth of the penny-worth; its cost would be one farthing, or nine farthings the dozen copies; or sixty farthings, that is one shilling and three-pence, the hundred. The sum paid the Excise in one day by a great London distiller, would pay for a copy for every family in England, Scotland, and Wales. From the Land's End, to John o' Groats, we should all know what Sir Robert will not do, if he gets again *his* House of Commons. What a sinecure would thus be purchased for the Merchant Tailors, whom he commissioned to inform the British Empire! They must have been men of iron lungs worked by steam, to do his task; but a few farthings will do it all. Every hearth shall learn to pay war taxes without grumbling, if you would but place the speech on every chimney-piece. Even Ireland shall pay tithes peaceably, if you will send her a thousand pounds in the shape of farthing speeches.

But just look at the thing. When you sit down to play a game at draughts, and find your companion at every move, would begin the game afresh, instead of taking the board as the game has left it, don't you suspect your companion means no fair play? So deals Sir Robert with us—He is sent for, not just as he states it—"The king had sent to Rome for the son of a cotton spinner, in order to ~~make him~~ prime minister of

England." No. A cotton spinner makes a fortune; he has a son, sends him to the old House of Commons; the old House of Commons sends him to the new; and the new bids him go to Rome. "Milord," is there next to the Pope, the jewel of the cotton-mine? He comes back to be prime minister, to dissolve the House of Commons, head a minority, receive addresses, and address the Merchant Tailors. I am not going to tell you what Peel has done. No. I only explained one of his sentences, to introduce his account of what he won't do. "He won't pull down the throne, nor the church." Now is not this, as I said before, breaking away from the game? "Church and king in danger!" was the old cry, was the beginning of the Tory power, three quarters of a century ago, when Dr. Sacheverell was so overwhelmed with addresses. How many moves the game has made since then! Why! when Canning was put out of the way, the "Church in danger" was formally abandoned; and Peel re-pealed all his former vociferations of, No Popery.

What must he think of his audience? Were they children? Had they never seen nor heard of Robert Peel before, nor of his doings and sayings? Had they heard nothing of what has agitated cabinet councils, occupied commissions and reports, alarmed monopolists and sinecurists? O yes! he says, We want no sinecurists. Does he speak here for his party? I think I may tell you that his "we" means "I." For just before that passage he had embodied the middle classes in that personage who had been sent for from Rome. He began his speech and ended in boasting of his having no wants which the King or the public could supply. Why, if every nabob who has, or can sit upon a stool of gold, be secured against all uneasy positions, especially that most uneasy one of having nothing to meddle with, and nobody to see him doing nothing, we should never have heard of half which was done by Cæsar or Mahomet, nor by any of the mischievous race by the side of whom he hopes to go down to posterity, as he expressed in boasting of his associate in the late occupation of Downing-street. And, forsooth, the men of ready means have the greatest stake in the country (for such is his concluding boast)—the men who have by themselves or their ancestors done the greatest doings in the columns of *L. & d.* are those who hold the greatest amount of patriotism! The wisdom, the fortitude of our old Lockes and Russells and Sydneys, the boldness of our Cranmers and Latimers, or older Wickliffe, are at a discount in these days of spinning gear. Those who are most able to submit to the impositions of Italian post-masters and Roman picture-brokers, are the princes in politics, and have purchased the birthright of patriotism. Make

money, no matter how—but money—make money. This was the advice of the satirist of a luxurious age like our own. See how this advice is followed in our own day. The artist gives up his fame and the historical school to make portraits, and portraits are too tedious when caricatures can be hit off and lithographed; and Tory guineas tell H. B. how much he wins upon the opinion of the legitimate arbiters of taste. In politics, Demosthenes is forgot, and young lawyers of the House contend who can make himself *least*, to please the great man who says, "We don't want sinecures." Even commerce is running mad in its haste to build as high a house as the cotton-spinner. Bread is becoming an unwholesome compost, beer an unsavoury drug, Manchester cottons are for the market of Rag-fair, and paper is so manufactured that the immortality of the press shall be forgotten as quickly as the manufacturer is housed in the Kemp Town of Brighton. Science has forgotten the names of Newton and Cuvier, and the fortune-teller of past days re-appears at the lecture-desk of the phrenologist; astronomy forsakes his observatory, sighs for the obscured sky, and plans a table of clouds for the "weather-wise." And yet the commercial spirit is to carry his conquests into politics, (the ordnance accounts will tell that in some departments jobbing genius has gone hand in hand with legislators of old times,) and the ledger is to be the escutcheon of the new senator; whoever has most capital is to have the greatest power in supporting corporations and exercising monopolies. Honest gains are almost merit, and private property must be secured; but those of longest purses are not always the most honest, nor those who work for small gains the least capable to choose an efficient parliament.

Every fable is allowed the accompaniment of a moral; perhaps you have found already these pages have wandered from the Speech. Take, however, this further comment. You have a speech delivered at a public festivity, you have an address in return for many hundred addresses from as many minorities of towns and uplands, you have the ruling voice of the Carlton Club, you have the words which were followed by the bow of him to whom all the halls of the nobility fly open, and who bows in, to his own salon, all the pride of all the noble houses; and yet these noble houses will refuse the invitation to the "drawing-room," this nobility have hustled the king in his house of parliament, that Carlton Club does issue mandates more extensively obeyed than what are dispatched from Windsor Castle, and those public festivities at the public expense and those addresses of all the minorities, are withheld from royalty. Now, can you make out what is our "balanced constitution," so much talked of by the so called "Conservatives?" or what is

the personage who in their ideas is of equal weight with the "cotton-spinner's son" sent for from Rome?

It is proper, therefore, that you should look at what he has done who makes so open and loud a declaration of what he will not do: or you may find too late that these "do-nothings," or "conservatives" who are stirring in all quarters, will have *done* for England and Englishmen, when it seemed a season wherein nothing could be done. This man from Rome, who boasts that his name will be associated with the greatest of conquerors, may live to conquer ye—that is to say, he may survive the fall of British liberty, of British taste and knowledge, and British wealth. He has tried his 'prentice hand very extensively. In 1819, he made the one-pound note worth three per cent. more than its real value; and all stock and mortgage debts, and all fixed farming rents, he made three per cent heavier than he found them. This was a gain to stockholders and others. The funds rose, the new purchasers of stock gave much for their bargain. Well! in 1830, that goose, the public funds, is made to lay a golden egg, for he who had made the fundholder, in 1819, a gainer at the rate of three per cent, now made a law that stock should be reduced. The Minister of Finance thus took credit for sponging out some thirteen millions of the public debt in one year. But he has never made amends to the farmer for the additional rent he imposed on him in 1819. You have heard, too, of reforms in the law. Perhaps you never heard of Sir Samuel Romilly. Well! he was a lawyer and a statesman, and "moved" the House, that is to say, found *the* House immovable on the subject of law-practice to be amended, just as Canning had found it stubborn in resisting his repeal of Catholic disabilities. Romilly died as Canning did, leaving his reforms a legacy to the nation—Peel adopted these. Thus you see Peel becomes a practical reformer. He is accessible to all proposed amendments of proved abuses. Of course he is not jealous of fame; he has no objection to restore honours, though the ghosts of statesmen are the only representatives of the claimants to public honors. You see then where you are to insert the name of Canning, and where that of Romilly; you only leave the currency as the nest-egg of Peel. If you like to see what further fame he merits as a financier, turn to the newspapers of January and February, 1828, especially that which contains a very long speech made on the introduction of the Tory budget. You will find Sir Robert asserting that there is a surplus of revenue. But the parliamentary grants of that year contain an issue of Exchequer Bills of 6,610,000*l.*, that is, pieces of paper printed for the Exchequer, and circulated as security for so much cash to be borrowed from stockjobbers to make up deficiencies of the

public income. You must, therefore, look a little at facts as well as words. The man is not a young statesman, but he is yet in his swaddling clothes (if he be not a mere abortion) as a reformer. All was knavery in politics before the House and Ministry were reformed. Mind, I say nothing against the *man*, (because he would be as the "greatest conquerors," and he is a man of war,) but declare that the would-be-minister has no notion of right from wrong. You must teach him even his arithmetic afresh, if you would make him a journeyman for your work. But I am beginning to talk irreverently of a Baronet who is the only statesman among the "respectability" of three generations. I would have made my language most respectful, but that is not what he cares for. You see the penn'orth is headed "*Peel's*" (plain *Peel*) speech; he would chuckle to find the familiarity of this approach returned—he wants not your bows and scrapes, but your votes. But his speech has told you this. "*His own*" are not to be vexed at any thing which has passed, they are to forget that they are not reformers—they are to make the House of Commons his, as it used to be, without marking any trifling alterations in the constituency, any additional trouble or trickery to be used in deceiving electors. If, like Sir Robert Gresley, they promise to their constituents to vote one way, they may dream away the obligation, as did Sir R. Gresley, and vote with the party.

And this is really all the comment the speech will bear. Now go, within two months the register of votes will be made out. All who have not paid their taxes and rates, due up to April last, by that time will be excluded. Some young Mr. Wood, or Mr. Parker, will be thrust upon the constituency; and it will be made a subject of wonder that so few men of talent find their way into the House. Even should the Tories (which the genius of England forbid) gain a majority in the House, there will be but one talented man in their list. Submission to one will be the watchword of their clan. Submission and awe will be the sign of respectability. All classes will ape the highest, and all will strive who shall bow lowest—all be rivals in the attempt to be the least. Legitimacy and limited monarchy will be the fashion of our days, if the son of the cotton-spinner will permit, and wrap himself up in the humility of a Commoner—but the Peel of the next generation will have been swaddled in addresses, nursed and fondled in majorities, the cotton-mine will have nourished its resources while the stipend of royalty became stinted—the feebleness of the prerogative will have evinced itself as the power of the great Commoner waxed greater—a shape of real power to curb the phantom democracy will be wanting, or a spell-word will be required, to quell the portent.

Then you will see the nursling and offset of this protector or conservative Commoner—then will the bright jewels of the new prerogative be uncovered from the cotton—and Kings, Lords, and Commoners, will lose all their rays in the splendor of a PEEL.

Oh! ye Sir Harries and Sir Edwards, and almost all ye Peers, how great wrong was done ye in the halls of your fathers! The good Sir Robert of the last generation used to make the great Sir Robert of this, deliver himself of a speech after dinner before the boy could empty the third glass, and accustomed him to the plaudits of the company before he had forgotten the scolding of the nurse. The result is that he is an orator—and future guests at City feasts, in “returning thanks for the honour,” shall attempt no new introduction, and give up the old, while they say, “Gentlemen, I rise in the modesty of Sir Robert —;” so will the speaker escape the prologue, and hasten to enlist his audience for the Orange cause, and secure them by—what token? By the delivery of a ticket to view the new Carlton Club, or by the very best bow current in Whitehall Gardens.

I have the honor to be,

The public's servant,

J. B.

(*Younger brother to H. B.*)

LONDON :

IBOTSON AND PALMER, PRINTERS, SAVOY STREET, STRAND.

S P E E C H

OF

H. G. W A R D, Esq., M. P.,

ON

MOVING CERTAIN RESOLUTIONS

RESPECTING

T H E I R I S H C H U R C H,

IN

T H E H O U S E O F C O M M O N S,

ON

TUESDAY, MAY 27, 1834.

Extracted from the Mirror of Parliament.

L O N D O N :

PRINTED FOR

THE PROPRIETOR OF "THE MIRROR OF PARLIAMENT,"

3, ABINGDON-STREET, WESTMINSTER.

1834.

P R E F A C E.

IT having been my fate to plead one of the greatest causes, that can possibly be brought before Parliament, at a moment when circumstances had combined to give to it peculiar importance, I trust that I shall need no farther apology for offering to the Public, in this shape, a full, and fair, statement of the Authorities, and the Facts, upon which my opinions, with regard to the Irish Church, are founded. I do not shrink, in any way, from the responsibility which may attach to these opinions. I wish simply to shew that they have not been adopted without much previous consideration ; and that they have been shared, to a greater or less extent, by many of those distinguished Men, whose names are best calculated to give weight to the views of an individual so little known as myself. These references were necessarily curtailed, or omitted altogether, in the hurry of a Newspaper Report. My own Extracts, and the Notes of the MIRROR, have enabled me to supply this deficiency ; and I do so, in the hope that this Publication may tend to produce, in the minds of all thinking Englishmen, the conviction, which

is so deeply implanted in my own, that, upon the adoption by his Majesty's Government of the Principle of a great, prospective, reduction in the Protestant Establishment in Ireland, must depend the tranquillity—I may almost say, the stability—of the Empire !

HOUSE OF COMMONS,

TUESDAY, MAY 27, 1834.

Mr. WARD.—I am perfectly aware that a man, who voluntarily undertakes to bring forward a great question in this House, has no right to expect that he can propitiate its indulgence by any professions of humility, or by any expression of a wish, however sincere, that the task had fallen into fitter, and abler hands. I must, however, at all events, entreat the House to believe me, when I state, that I have not taken up the momentous subject, on which the discussion of this night must turn, lightly, or hastily, or inconsiderately, nor without the deepest conviction of the importance of the principles which it involves. It is upon this ground alone that I venture to claim the attention of the House; for I will not do Honourable Members the injustice of supposing that any deficiencies on my part will induce them to withhold from this question that deliberate consideration which its importance demands. I fear, however, that it will be necessary for me to trespass at some length upon their indulgence; for I can only justify myself to my own conscience, and to the House, in bringing forward so great an innovation, as that which I have felt it my duty to recommend, by shewing, not only that there are ample grounds for a departure from ancient practice, but that there are not less ample grounds for believing that the change will be productive of a great practical good.

I must first prove the Necessity, and then the Justice of what I propose; for it is upon this basis alone that all changes in the policy of a great community should rest, and more especially those changes, in which its Religious institutions are concerned. I entirely concur in the sentiments once expressed on this subject by the Right Honourable Gentleman, the Secretary for the Colonies, who said, two years ago,—

That the question of the maintenance of that connexion, which, in all Christian countries, the Legislature had thought fit to establish between itself and the Religion of the State, ought not to be raised without the most deliberate consideration; and that, on the

part of the Government especially, it required the plea of the most imperative Necessity, to justify any interference with existing relations.

Sir, I adopt every word, and every sentiment, here uttered ; but the question which I have to put to the House is, whether, upon the most deliberate consideration, it does not conceive, so far as Ireland is concerned, that the case of imperative necessity has already arisen? — whether we can reject the evidence of that necessity, which has accumulated upon us?—and whether, if we admit that evidence, (however unwilling we may be to receive it), we can refuse to apply the remedy, which I believe the Constitution to have placed within our reach?

Sir, this is the case which I have to establish ; and if I fail in establishing it, the House will only discharge its duty by rejecting my present motion. Before I enter, however, upon the details in which that motion must necessarily involve me, I wish to state distinctly the course, which it is my intention to pursue, and the reasons which have induced me to change—or modify, at least,—the shape, in which my Resolutions originally appeared. I hope the House will do me the justice to believe that I have not sought, by thus altering the terms of my motion, to obtain any unfair advantage. I gave the earliest intimation of my intentions to the Noble Lord opposite ; but having been informed, by the highest authority to which the point could be referred, that it was quite impossible to take the sense of the House on a proposition embracing such a variety of details as my original Resolutions, I was compelled to separate the question of the Principle, from that of the details. I confess that I had an additional inducement to do this, from my knowledge that, upon the details, many Honourable Gentlemen differed from me, whose support, upon the principle, if it were brought forward alone, I might fairly hope to obtain. Besides, I was aware that, from the want of local knowledge, as well as of accurate sources of Statistical information, there might be in the details a degree of obscurity, and vagueness, which I should not have to encounter in the discussion of the principle. I, therefore, felt it my duty towards those who concurred with me with respect to the principle, to call upon them for their votes on the principle only, to-night, and to reserve the details for the future consideration of the House, if it should think fit to sanction the principle. I must also state, with regard to these details, that, although I have felt it right not to bring forward the question in the shape of a mere abstract principle,

without shewing in what manner I conceived that this principle might be worked out without the slightest violation of justice, or trenching, in any way, upon individual rights, I am so far from being wedded to the details of my plan, of the unavoidable deficiencies in which I am fully sensible, that if any fairer, or, above all, any more effectual, mode of carrying the principle into operation can be suggested, I shall be the first to adopt it.

I now come to the question of Necessity, which is the basis of my whole argument ;—the Necessity, the imperative Necessity, of making a great, and extensive, change in the Protestant Church of Ireland, as now established by law, if we are sincere in our desire to tranquillize that country,—to heal old wounds,—to repair past injustice, and to identify the interests of Ireland with those of the Empire at large.

In entering upon this part of my subject, I assure the House that nothing is farther from my wish than to inflict upon it proofs of my industry, in the shape of long quotations ; but the House must feel that it is most essential for me to shew, that some of the wisest, and greatest, of those Statesmen, whose names adorn our annals, have always sought the cause of those disturbances, which have so long afflicted Ireland, rather in her Religious, than in her Political, wrongs. Indeed, the question of Religion is so blended, and interwoven, with the whole course of our Irish policy, that it is impossible to draw a line of demarcation between them. Religion has perpetuated those distinctions between the conquered and the conquerors, which time must otherwise have effaced : Religion has served as the plea for every successive confiscation : Religion, in short, is the cause, to use the words of Sir James Mackintosh, in the last work, which he has bequeathed to his country,—

Why, the State, the Church, the Administration, and the Property of that unhappy Island, are bound together by such unnatural ties, and placed upon such weak foundations, that every rumour of alteration in one of them spreads alarm for the safety of the whole.

Sir, this opinion is not peculiar to Sir James Mackintosh ; it has been shared by nine out of ten of those, who have either taken part in the administration of Irish affairs, or have paid to them here, the attention which they deserve. Their feelings may have been modified, as the more odious parts of our system of Religious intolerance have disappeared ; but the evidence, which bore originally upon the question of Catholic Emancipation, and upon the still more

important question of the abolition of the Penal Laws, bears now just as forcibly upon the last remains of this system, the compulsory support by the Catholics of an Establishment to which they do not belong. The system is one system—the parts are parts of a Whole—and those feelings of just indignation, which that Whole formerly excited in the bosom of every Catholic, whom it consigned to an existence of degradation, of oppression, and of wrong, are now concentrated against that portion of it which remains, as if to perpetuate the memory of past injustice.

Mr. Canning, so early as the year 1812, reprobated the system of bit-by-bit justice, which seems ever to have been the course which England has delighted to pursue towards Ireland. He asked one of his opponents, who refused to grant Catholic Emancipation, yet boasted of the abolition of the Penal Laws,

Whether he thought that those wise, and salutary regulations, though abolished, ought not to be forgotten? Whether, although we had partially—perhaps improvidently—removed the chain from the limbs of the Catholic, we ought to leave a link or two behind, to remind him that he was once in fetters?

The Protestant Church appears to me to be this link;—or rather the law, by which a compulsory provision for this Church is wrung, in the shape of Tithes, from the scanty pittance of the Catholic peasant. This feeling is not of modern growth, or the result, as some have thought, of modern agitation. It dates from the very moment when the design of extirminating the Catholics by process of law was abandoned; and when the relaxation of the Penal Statutes gave to them, as a body, what I may call a legal existence. Lord Charlemont tells us, in one of his earliest memoranda, that the rise of the disorders in the South of Ireland was to be ascribed entirely to Tithes;

Tithes which the Catholic, without any possible benefit, unwillingly paid in addition to his Priest-money.

Mr. Grattan, at a little later date, placed upon record his opinion on the subject of Tithes, in a speech, which will ever be regarded as one of the most splendid monuments of human eloquence. Mr. Pitt, on this subject alone,—that of doing justice to the Catholics,—coincided in opinion with his great rival Mr. Fox. Indeed, I may say, that a careful reference to the debates which preceded the Union, will bear me out in stating that Mr. Pitt was convinced, even then, that, without a very great reduction of the Protestant Establishment in Ireland, that measure never could be considered as complete. His words are so remarkable (I allude to the debate on the 21st of April,

1800) that I cannot refrain from recalling them to the recollection of the House :—

I shall only say this upon so interesting a subject, that the prosperity of the Church of Ireland never can be permanent, unless it be a part of the Union to leave, as a guard, power to the United Parliament to make some provision on this subject beyond any act of their own that can now be agreed upon It may be expedient to leave to Parliament an opportunity of considering what may be fit to be done for His Majesty's Catholic subjects, without seeking at present any rule to govern the Protestant Establishment, or making any provision upon that subject.

This was the language of true political foresight; and the experience of thirty years has only given us additional cause to deplore that Mr. Pitt's counsels should not have been acted upon sooner. The Union with Ireland never has been completed! The interests of the two countries never have been identified! The Protestant Church has remained, during the whole of this period, a bar to any kindly approximation of feeling between them—a bar, which it is our interest, not less than our duty, to remove. Is there any man in this House who will affirm, that if Mr. Pitt's views as to Catholic Emancipation, and an Establishment for the Catholic Clergy, which he is also known to have contemplated, had been acted upon in 1801, we should ever have had a Motion for the repeal of the Union in 1834? I do not believe it possible.—Have not those who have agitated that question here, and elsewhere,—(elsewhere, at least, for somehow or another, the subject was not dwelt upon here with the weight which I should attach to it,) invariably found it necessary to connect the question of Repeal, with the claims of the Irish Clergy? Are not half the petitions for Repeal, Tithe petitions also? And, if the grievances resulting from the Protestant Establishment were redressed, have we not reason to believe that the charm which now dwells in that word “Repeal,” would be broken?

If, from the days of Mr. Pitt, we come to more modern times, we shall find that the influence of the Tithe question upon Irish hearts—I will not say Irish imaginations, because I feel that justice is on their side,—has never varied. I do not wish to weary the House by analyzing all the proofs of this, which may be found in our Journals. I will come, at once, to the year 1822, and refer to the Motion of Sir John Newport, which was a very remarkable Motion, from the opinions which it was the means of eliciting. And what was the language which Sir John Newport held? Why he told the House,

That the Tithe system could not be continued, except to entail eternal disquietude, and misery, upon Ireland.

On the same occasion, I find my Right Honourable Friend opposite, the Secretary of the Treasury (Mr. Spring Rice), exclaiming, in answer to some one, who urged the extreme delicacy of the subject, and the danger of mootng it in this House, that,

There was one thing more dangerous than discussion, and that was—despair.

He added that—

Tithes, though not the exclusive cause of disorganization in Ireland, were mixed up in all the disturbances, which had so long prevailed there, so that it would be futile to devise any measure of relief, in which they were not included.

Upon the same occasion, the Right Honourable Gentleman, the President of the Board of Control, made that memorable speech, which, as long as Ireland exists, will be referred to as one of the most beautiful, pictures of her situation, and her sufferings, as well as one of the most honourable proofs of the soundness, and liberality, of the views entertained by the Right Honourable Gentleman himself. And what, I ask, was the gist, and essence, of this remarkable speech? What, in the opinion of the Right Honourable Gentleman, amidst all the grievances of Ireland, was the grievance most acutely felt? The last drop in the full glass of her sufferings? Why Tithes!

Tithes, which (he said) had contributed more materially than any other cause to the deterioration of the country. The Levelers of 1760 resisted Tithes. The Hearts of Oak, in 1764, resisted Tithes. The fury of the Munster Insurgents, in 1787, was more peculiarly directed against the Clergy. And, since the Union, revolts had not been less frequent, and their objects always the same.

Sir, this is strong evidence, and I hope it will be esteemed so by the House. But does it stand alone? Look to the very next year—1823, and to the not less remarkable Motion brought forward by the Right Honourable Baronet (Sir Henry Parnell), now the Member for Dundee, for a Committee of Inquiry into the state of his native Country. On that occasion I find him stating, that—

Out of a period of thirty-one years, no less than twenty-six years had been years of actual insurrection, or disturbance. Four years alone had been marked by anything like tranquillity.

And to what did the Honourable Baronet attribute this appalling state of things? Why—

To Political excitement, arising out of Religious wrongs. . . . This (he said) was the evil we had to contend with. We must cure this, to put down disturbances. . . . Scotland was never

tranquil, until such a change was made in the laws, as restored, and re-established, the Religion of the people.*

In 1832, the Committee, moved for nine years before, by the Right Honourable Baronet, was granted; and I ask any Gentleman, who has read the evidence taken before that Committee, with the attention which it deserves, whether it does not entirely corroborate the views entertained by the Right Honourable Baronet, and whether it does not prove, to demonstration, not only that the causes of Political disturbances in Ireland must be sought in Religious wrongs, but that, amongst those wrongs, none have exercised so constant, so irritating, so pernicious an influence upon the minds of the people, as those connected with Tithes? I might prove this by the evidence of almost every witness examined before that Committee; but I do not feel justified in trespassing at such length upon the indulgence of the House. Besides, I may be told, that the abuses of the old Tithe-system are recognised by all parties. The variety of claimants,—the perpetuity of small demands,—the incessant collision with the occupying tenants, and, above all, the iniquitous exactions of the Tithe-proctors;—these are things which no one attempts either to palliate, or to deny! Indeed, no one has felt them more acutely, or described their effects so well, as the Right Honourable Gentleman, the Secretary for the Colonies, whom I regret not to see in his place. I regret it the more, because part of my argument must, necessarily, turn upon the line of conduct, which that Right Honourable Gentleman has felt it to be his duty to pursue, both in, and out of, this House, and upon the consequences of that conduct to the Empire at large. I hope, however, that the House will do me the justice to believe, that, if I cannot allow the absence of the Right Honourable Secretary to make any difference in the line of argument, which I intended to pursue, I shall, at all events, not take advantage of that absence, to introduce any argument, which I should not have urged had he been present. I shall simply follow the course, which I had originally chalked out for myself, and from which I cannot depart, without injuring the cause, which I have undertaken to plead.

In the year 1832, the Right Honourable Secretary for the Colonies, in describing the effects of the Tithe-system, said—

That resistance to Tithes was almost universal in Ireland. It extended to the Protestants in the North, as well as to the Catholics in the South. The seeds had been long sown, and were

deeply rooted.—Every symptom which could mark a determined opposition, on the part of a whole population—acting as one man,—against the imposition of a legal due,—had been developed on this occasion.—No Processes could be served,—no Attorneys would act.

I concur entirely with the Right Honourable Gentleman in the truth of this picture, but I differ with him as to the remedy to be applied. He says that Commutation will be sufficient ;—I say that nothing short of a new Appropriation can suffice, to produce even a momentary tranquillity. The arguments used by the Right Honourable Secretary himself, at different periods, as well as the evidence taken before his Tithe Committee of 1832, have rivetted this impression on my mind ; and it is my deliberate conviction, that, without an entirely new Appropriation of the revenues of the Protestant Church, the Irish people will regard Commutation as a mockery. If I wish for a proof of this, as regards the future, I need only look to the past.

In doing this, I cannot be supposed to be actuated by any unkindly feeling towards the Right Honourable Secretary, or towards his Majesty's Government, which I have so constantly supported during the short period that I have had the honour of a seat in this House. I refer to the past, simply, by way of illustrating what ought to be our conduct at the present time. I admit the great difference between the position, in which the question stands now, and that in which it stood in the year 1824, when the Right Honourable Secretary first came forward as the champion of the Irish Church. There was, at that time, a great deal of exaggeration with regard to Church revenues abroad. We had no accurate data to go upon. Besides, so long as Catholic Emancipation was withheld, Tithes were a minor grievance ; and few had reflected upon the importance, which they would necessarily acquire in the eyes of the people of Ireland, when every other right was conceded to them, and the Tithe system was left to stand alone,—a solitary monument of past oppression.

I can perfectly understand the Right Honourable Gentleman's motives, under these circumstances, in taking up the gauntlet in defence of the Church, as he did, when he opposed, in 1824, the motion of my Honourable Friend behind me (the Member for Middlesex), for a Committee of Inquiry. The Right Honourable Gentleman stated the case very fairly. He said,

The Motion either went too far, or did not go far enough. The Established Church in Ireland should either be supported, or given up, altogether.

This is the real question. Now the Right Honourable Gentleman has, since, had the opportunity of trying the experiment whether, in Ireland, the Established Church can be supported, or not. He has been placed in a situation, in which the whole resources of this Empire have been at his disposal. The Legislature has reposed in him, personally, the most unlimited confidence. Men, Arms, Money, Tithe Bills, Coercion Bills,—nothing has been withheld, that he has thought proper to call for; and I now ask him what has been the result? Is Ireland tranquil? Is the property of the Church secure? Can we contemplate any reasonable probability that the Ministers of that Church will ever again be able to collect what are undoubtedly their legal dues, either through the medium of a Commutation Bill, without a change of Appropriation, or by reverting to that system, which the Right Honourable Gentleman himself once characterized, as,

A system which never ought to have existed, in any Christian community, between the Pastor and his flock.

What he says of the machinery, I say of the system itself;—of Tithes in substance, as well as Tithes in name; of Tithes levied on a Catholic population for the support of a Protestant Church! This is the grievance, against which the complaints of the people of Ireland are directed; and this is an evil, which no Commutation can reach. If I want proof of this, I must again refer to the fate of the Right Honourable Gentleman's Resolutions of 1832,—those celebrated Resolutions, by which he constituted the Crown the Receiver-general of the Church, upon the supposition that he had only to make the Crown the creditor, and that by aid of the power which he possessed, he should be enabled to settle the question at once. What were the arguments by which those Resolutions were met? Why, the Right Honourable Baronet, the Member for Dundee, told him, that,

The system of advances, and repayment, was impracticable.—He was convinced that the means, by which that object was to be effected, would not succeed.—They had the most distinct proof in the evidence given before the Committee, that they could not succeed.—To his own knowledge, that evidence was most correct.—The plan had not the slightest chance of success.

In this sentiment, almost every Irish Member, without distinction of party, or politics, concurred.

The Honourable and Learned Member for Tipperary said,—

The collection of Tithes is not the question: the amount of Tithes is not the question; but the question is, shall the Tithes be otherwise appropriated or not?

The Honourable Member for Kildare said, that

He never paid Tithes without feeling himself degraded; he regarded it as a tribute paid by the conquered to the conquerors.

The Honourable Member for Wexford said,

He thought the Catholic people of Ireland wronged, and insulted, by being compelled to pay Tithes to a Protestant Church. For his own part, he never paid them without feeling that there was no just right to compel him to do so. The law might give the right, but to him it was a legal wrong.

Sir, these are the sentiments—not of professed Agitators, —not of men who are desirous to dis sever the connexion between the two countries,—but of men distinguished amongst ourselves by their high, and gallant bearing, and who may fairly be supposed to represent here the opinions of the more moderate class of the community, to which they belong.

There was no want of prophets, indeed, on the other side! The Solicitor-General for Ireland (who, by-the-bye, has not now a seat in this House), announced, most distinctly, that

The moment the fiat of the Legislature was pronounced, Combination against Tithes in Ireland would be broken. The arm of the Church was weak, but the arm of the Law was strong; and Combination and Conspiracy would melt away before it,

“ Like snow before the summer's sun.”

It is always a dangerous thing for a lawyer to deal in poetry; but there never, perhaps, was a case, in which the visions of the imagination were so decidedly at variance with facts, as in the case now before us. The Act which the Honourable and Learned Gentleman sought, was passed;—he was invested with the powers for which he had so earnestly prayed;—and what then? At the expense of 26,000*l.*, in the course of six months, he succeeded in collecting 12,000*l.* of arrears. The attempt was then abandoned, and this House was compelled, at the close of the last Session, to purchase a truce at the expense of one Million more. That truce is now about to expire. On the 1st of November, the Clergy of Ireland will be thrown once more upon the resources of the Country; and I ask the Noble Lord opposite, with that feeling of unfeigned respect, and regard, which I have always entertained for him, whether he can, with that fearful responsibility which must rest upon him, recommend to this House to have recourse to a system of Commutation, the inevitable failure of which every one again predicts, or whether he will not rather address us in the words,

which Curran once used in the Irish Parliament, and say,—

You have the infallible test of fact, and experience, before you; and wretched indeed must you be, if false shame, false pride, false fear, false spirit, can prevent you from reading that lesson of wisdom, which is written in the blood, and in the calamities, of your Country.

Sir, we have tried Force, to support the Irish Church, and it has failed us.

By the Return which I hold in my hand, I find that, from the year 1825 to 1832, our Army in Ireland varied from 19,000 to 23,000 men: that is to say, it consisted, as nearly as possible, of the same amount of British force as is required for the whole of our Indian Empire, and within one-third of the force employed to occupy our Colonies in the other three Quarters of the World. The expense of this Army in Ireland from the 1st of April, 1833, to the 31st of March, 1834, amounted to 1,025,621*l.*; in addition to which we have kept up a large Police Force, the cost of which, from the year 1830, to 1832, has increased from 256,663*l.* to 287,192*l.*; and I suppose, since 1832, there has been a still greater increase.

Mr. FINN.—£50,000 a-year more.

Mr. WARD.—So much for the question of expense;—but, independently of this, I will put it to the House to say, whether it is not great abuse of our gallant soldiery to convert them into agents for the collection of Tithes in every petty village, and district, throughout the country? Their character has, indeed, only been raised, hitherto, by the trial, but it should not be risked too long.

We have not only tried Force, but we have tried Law, to support the Irish Church; and that has failed us also.

I hold in my hand a Return of the number of Tithe causes tried in Ireland from 1817 to 1821, which was ordered to be laid on the Table of the House on the 18th of March, 1822. It states that the number of Tithe causes tried in the Ecclesiastical Courts, amounted to 3418; and that the number of Tithe causes tried at Quarter-sessions, by what is termed Civil Bill Process, before the Assistant-barristers, amounted, in the same period, to 86,487;—making a total of 89,905; which gives an average of nearly 20,000 Tithe causes in each successive year.—Besides this, the Magistrates are empowered, by the 54th of Geo. III., to decide all cases under ten pounds; and the Clerk of the Peace for the County of Armagh, estimates the number of causes brought before

the Magistrates of that County alone, to be 1000 annually. I do not wish to submit such a statement as this to the House, without stating precisely the manner, in which it has been made out. The Clerks of the Peace, in making the original Returns, stated generally, that they were unable to make any distinction between Tithe causes and other causes, tried before the Assistant-barristers; but they added that, to the best of their belief, about one-third of the causes thus decided were Tithe causes. From seven Counties, indeed, there are distinct Returns, either of Tithe causes, entered as such, or of those causes tried at the suit of Clergymen or Tithe-proctors, which are supposed, naturally, to have originated in Tithes. In all the rest, I have taken the third of the whole Return as the basis of my calculation. But so anxious was I to avoid anything like exaggeration in this matter, that I put the paper which I had thus drawn up, into the hands of the Honourable and Learned Recorder for Dublin, whose absence on this occasion I much regret, and asked his opinion respecting it. He told me, with great fairness, that he could not speak personally as to the accuracy of any of the statements; but that, as the cases tried before the Assistant-barristers comprehended all those cases, in which a note-of-hand had been given, and as that mode of paying Tithes was almost universal in Ireland, he did not conceive the estimate to be exaggerated. Well might the Right Honourable Gentleman, the President of the Board of Control, say of such a system as this, in the Speech to which I have already referred, that—

Tithes were a constant source of irritation in Ireland from May to April, and from April again to May. Year by year, the same tormenting routine recommences; and, as it extends from farms to villages, and from villages to Counties, you will see what a fruitful source is here opened for discontent and heart-burnings, and, in the end, for the most serious troubles.

But we have tried not only Force, and Law, for the support of the Irish Church—we have tried Liberality also!

I find, by a reference to the Report of the Committee on the Irish Miscellaneous Estimates in 1829, that the Grants made to the Charter schools, the Association for discountenancing Vice, and to the Kildare-place Society, in all of which institutions Education was, in some way, connected with a system of Protestant Proselytism, amounted to 1,378,369*l*. During the first fifteen years of the Union, the Grants of this House for building Churches, and purchasing Glebe-lands, amounted to 234,415*l*. more. And, as these Grants have been continued down to a very recent period, I do not think that I can be accused of anything

like exaggeration in stating, that upwards of two Millions of English money, in addition to the Million granted last year, have been employed to gild the pill of the Protestant Establishment in Ireland, which the natives of that country have, nevertheless, been almost unanimous in rejecting! The Irish people have clung, with an almost desperate tenacity, to their ancient Creed—a Creed, which has been endeared to them, not only by the attempts which have been made to shake its hold upon their affections, but, I fear I must add, by the flagrant abuses of the Protestant Establishment itself.

Before I approach this branch of my subject, or enter into a comparative statement of the services rendered, and of the scale of remuneration required, by that Church, I must state to the House that I was most anxious to obtain some better Statistical data, upon which to judge of this part of the question, than any that have hitherto existed. The House is aware, that all Religious distinctions have been excluded from the Census of the Population in Ireland, since 1731.

The Returns moved for by the Honourable Member for Cheshire, of those Parishes, in which the number of Protestants does not amount to fifty, have not yet been laid upon the Table of the House; and the Returns of the Catholic Association, which have often been appealed to, only include 278 Parishes out of 925. I am, therefore, forced to have recourse to the more ordinary sources of information, the accuracy of which there can be no reason to doubt, as the basis of my calculations. By the Population Abstract in 1831, it appears that the population of Ireland, at that time, amounted to 7,767,401 souls. I may, therefore, fairly estimate them at 8,000,000 at the present day. The Rev. Mr. Cooke, the Moderator of the Synod of Ulster, in his evidence before the Committee of Education in the year 1828, states, that the Presbyterians of the Synod of Ulster amounted to 559,828. In the Synod of Munster there were 5000 more; and in the other provinces 5022; making together a total of 569,840 Presbyterian Dissenters from the Established Church in Ireland. In 1812, Wakefield estimated the Episcopalian Protestants at one-fourteenth of the whole population; and I have no reason to believe that his estimate was incorrect, or that the proportion has changed in their favour at the present day. I have a Return made in 1831, of the population of 37 Parishes in the Diocese of Ossory, for the accuracy of which the Honourable Member for Kilkenny will vouch. The population of these 37 Parishes, in the year 1731,

according to a Return made by the Protestant Bishop to the House of Lords, was 16,487; the Protestants amounting to 1935. In 1831, the total population was found to be 64,225, of whom 1453 only were Protestants. Thus, while the total population had quadrupled in the period of a hundred years, the number of Protestants had fallen off by one-fifth; not as compared with the whole population, but as compared with its own numbers in 1731. The average would be about 1 in 44. The Returns, which have been made to me from various parts of Ireland, tend to confirm this result, or, at least, to prove, incontestably, that Wakefield's estimate of one-Fourteenth rather exceeds, than falls short of, the real number of Episcopalian Protestants in Ireland. I hold in my hand Returns from nine different Counties, taken, I can assure the House, without the slightest wish to make out a case, for I have included all the documents, that have reached me, wherever I have been able to ascertain that the parties furnishing them might be relied on for their accuracy. These Returns comprehend Seventy Parishes, containing a population of 329,000 Catholics, and only 14,037 Protestants, many of whom are stated to be Dissenters. This gives an average of one Protestant to twenty-three Catholics, in the whole Seventy Parishes; but the proportion, in different Parishes, varies from 1 in 9, to 1 in 16, 1 in 40, 1 in 95, and, in one Parish, the proportion is even 1 Protestant to 134 Catholics! I have a Return of the population of 17 Parishes in the county of Louth, which is stated to amount to 17,007 in all, of whom only 253 are Protestants. In these 17 Parishes 3000*l.* a-year is paid, annually, by the Catholics for the Religious instruction of 208 Protestants! for 45 of the 253 included in the Return are stated to be Dissenters. The only part of the Census taken by the Catholic Association, which was complete, was the Census of the Diocese of Waterford; and the population there, in 1828, was found to amount to 231,818 Catholics, and 1149 Protestants. The House will perceive that the average which I have before taken of the 9 Counties, which gave 1 Protestant to 23 Catholics, exactly tallies with this. I received, this morning, some additional Returns from 20 other Parishes, the total population of which amounts to 85,700 souls, of whom 2155 only are Protestants. This would give an average of only 1 in 39; but I am far from wishing to assume that these conclusions can be correct. I have no doubt that the strongest cases have been selected by those, who have put themselves in communication with me. But if, in lieu of adopting the averages

which these Returns would authorize me in taking, (that is, 1 in 23, or 1 in 39), I assume Wakefield's average of 1 in 14 to be correct, I think I cannot fairly be accused of any design to diminish the numbers of the Episcopalian Protestants below their real amount. This would give 600,000 in all, as the numbers of those, for whose exclusive benefit the present Establishment is kept up. And what is the cost of this Establishment?—Very nearly one Million Sterling. The Noble Lord, in his calculation last year, did not make it out to be so much; but he omitted, in his estimate the Glebe lands, held by the Clergy, amounting to 85,000 acres of good land, which, at 30s. an acre, would amount to 135,000*l.* a-year. This, together with the Bishop's lands, the Ecclesiastical Corporations, and the Returns of Tithes, will make a total of 937,456*l.* as the yearly Revenue actually received by the Irish Church. The total number of Benefices is 1456, of which 74 range from 800*l.* to 1000*l.* a-year; 75 from 1000*l.* to 1500*l.*; 17 from 1500*l.* to 2000*l.*; and 10 from 2000*l.* to 2800*l.*, which is the maximum. There are 407 Livings, varying from 400*l.* to 800*l.* per annum; and 386 Livings, exceeding 200*l.*, which is the maximum of remuneration among the Presbyterians of the North. Who can say that such a fund as this is requisite to supply the Spiritual wants of 600,000 Souls? Who can wonder that the very magnitude of the Establishment, and the paucity of the duties attached to the different Livings, should have rendered the Irish Clergy peculiarly open to those attacks, on the score of non-residence, and neglect, which constitute one of the most serious charges against them?

I find, by reference to Returns, which were laid before Parliament in 1819, that the numbers of Resident and Non-resident Clergymen, during the five years preceding, were nearly equal. In 1814, there were 644 Residents, and 543 Non-residents; in 1817, there were 765 Residents, and 544 Non-residents; and, in 1819, there were 758 Residents, and 531 Non-residents. The Non-residents are classed rather singularly—they are called Non-residents by exemption, Non-residents by dispensation, faculty, or license; Non-residents without dispensation, faculty, or license; and Miscellaneous Non-residents. This last term I do not quite understand. But, be the classification what it may, one thing is evident, namely,—that the greater part of the work of the Protestant Establishment in Ireland has been done by the Curates, of whom there are no less than 730, at the present day, receiving salaries varying from 18*l.* to 200*l.* a-year, but averaging, perhaps, between 60*l.* and 70*l.* Now, if, for this pittance of 70*l.* a-year, the working portion

of the Protestant Establishment can be provided for, what must the feelings of the Catholics be towards that part of the Establishment, by which no work is done at all? Why should they submit to the burden, which this Establishment imposes on them? Why should they not, to use the words of my Honourable, and Learned, Friend, the Member for Tipperary, "cry out as loudly against Churches without Congregations, as the people of England did against Boroughs without Constituents?" I admit the analogy between the two cases, and I believe that the demand will be found to be equally irresistible in the one case, as in the other, because it is equally just.

I shall now be asked whether I wish, by pointing out the defects of the Establishment so strongly, to strip the Protestant Church, entirely, of those revenues, which have been so long appropriated to its service, and to transfer them, at once, to the Catholics, as constituting the majority of the population? Certainly not. I do not hesitate to say that I contemplate nothing of the kind. I wish only to do away with that glaring disproportion, which exists, at present, between the scale of duty, and the scale of remuneration, in the Church. I do not see why there should be Livings of 800*l.* or 1000*l.* a-year, with not more than ten, or twelve, Protestants to benefit from so ample a fund; and those Protestants constituting, in more than one instance, the family of the Vicar, actually brought into the Parish by himself. I do not see why, in cases, where there is only the remnant of a Protestant flock, some provision should not be made for that remnant by the occasional services of a Curate, without entailing on the Parish the expenses, to which a Rector thinks himself entitled. I do not see why we should not follow the same scale of remuneration with respect to the Episcopal Clergy, where there are literally not Protestants sufficient to constitute a Protestant Congregation, as is held to be satisfactory by the Presbyterians of the North of Ireland. The Country is the same; —the Religious services are the same; yet you find, if you look to the evidence of Mr. Cooke, the Moderator of the Synod of Ulster, that the incomes of the Presbyterian Ministers of the first class, in the large towns of Armagh, Newry, Belfast, and Dublin, (the great prizes in the lottery of Presbyterian Church preferment) do not vary from 250*l.* to 300*l.* a year; while, in the country districts, they do not average 160*l.* This includes the *Regium Donum*, or Government allowance, which is distributed amongst them in three separate Classes, (the first of which receives 100*l.* a year, the second 75*l.*, and the third 50*l.*,) as well as the stipend derived from their flocks, which con-

sists entirely of pew-rents, surplice-fees being quite unknown.

If this example is not sufficient, look at the Clergy of Scotland! In what country, on the face of the globe, are the duties of the Pastoral Office more faithfully performed? In what country does the Clergyman exercise a more beneficial influence over his flock? Where are the Clergy, as a body, more looked up to, respected, and beloved? Yet, what is the scale of remuneration there? The *minimum* is, I believe, 150*l.* a year; but, in the majority of the Country districts, it is about 200*l.* In some cases it amounts to 250*l.*, but in none does it exceed 300*l.* With this example before us, I think I cannot be accused of acting with niggardly parsimony towards the Church, if I propose, as a proper scale of remuneration for the Episcopalian Clergy of Ireland, who are actually in want of a flock, that, which is considered by the Presbyterian Clergy of the North of Ireland, and by the whole Presbyterian Clergy of Scotland, as an ample compensation for the faithful, and laborious, discharge of all the duties of the Christian Ministry.

If I am asked how I would regulate the distribution of these salaries, I say, that I would give to Commissioners the power of assigning certain salaries, in particular cases, subject to the control of Parliament, which should fix permanently those cases in which a provision might be made. We have an example before us, to prove the facility, with which a plan of this nature may be carried into execution, in the Ecclesiastical System of France. Provision is made there, in the Budget of every year, for the Clergymen of every Congregation of Christians, without distinction of Religious opinions, who notify their existence to the Minister of the Interior. There are certain forms to be attended to, in order to constitute a legal existence; but when these have been complied with, the Minister, at once, assigns to them, in the Budget a fixed sum, which is sanctioned by the Chambers. In France there is no Tithe fund, upon which to draw for these grants. It was, as is well known, voted away, in a moment of what has been called Revolutionary Enthusiasm, but which I should call Revolutionary Frenzy. However, the benefit did not go to the great landowners only, as it would do, if Tithes were abolished in Ireland, or here. There was so great a mass of confiscated property sold at that period, under the name of National Domains, and this property was so parcelled out among the small landowners, that the benefit of the abolition of Tithes has been brought home to every class; and every class is justly called upon, now, to

contribute towards the National fund for the support of Religion. That fund is distributed, as I have already said, by the Minister of the Interior. The Bishops, and Archbishops, receive out of it from 15,000 to 20,000 Francs; the salaries of the Curates are small, but vary according to the Surplice-fees, which, in large towns, such as Paris, amount to a considerable sum. I am assured by friends, upon whose accuracy I can rely, that this system works well—that it prevents rivalry between the different Sects, and ensures a full measure of Religious instruction for the people. It is for this House to say, whether there may not be, in the case of Ireland, many circumstances, which might render the adoption of a similar system advisable there. I merely submit to the House, now, the necessity of some decisive change in the present state of things, as a general proposition; but I shall be prepared to go into details, as to the best mode of effecting this change, if the House should sanction the principle of Reduction, which I have laid down to night.

But, of course, although Reduction is the first step towards any improvement, our right to reduce depends upon our right to deal with the Church property at all,—on which important subject, as I have introduced it into my present Resolution, I shall beg leave to offer to the House a few observations.

I have been blamed for mooted this subject at all, at this particular time; and I have been told that, by doing so, I have raised a new ground of discussion. I really will not do Honourable Members the injustice to suppose this.—I will not do the House the injustice to suppose, that any Honourable Member could bring himself to vote for a Reduction in the Irish Establishment, without believing that we have a full right to regulate the distribution of the Church Property, in any way, that the welfare of the Community may require. If we have not that right, we cannot approach the question at all. We have no plea for interfering with it! We must therefore establish the right in the first instance, and then proceed, if necessary, to act upon that right.

Sir, I do not shrink at all from this discussion. I am aware of the prejudices, which have long existed on this subject;—I am aware of the odium, to which a man may expose himself, with a certain party at least, by advocating, even at this day, and in this House, what appear to me to be the plain principles of common sense,——

Several HONOURABLE MEMBERS.—No! No!

Mr. WARD.—I merely made that observation, because

it has been urged on me by many Gentlemen, who are disposed to vote for the principle of Reduction, in the case of Ireland, that they do not like to assert that we have that right, and power, of control, which, in my view of the case, could alone justify our interference, and I repeat, that this feeling is so strong with me, that I cannot follow their advice, by attempting to evade the question, but shall bring it fully, and fairly, before the House, after first touching upon a peculiarity in the case of Ireland, on which great stress has been laid, as an objection to our dealing with the property belonging to the Church in that country,—I mean the Act of Union.

The Fifth Article of that Act is, I believe, the one, on which those Gentlemen, who have invoked it to their assistance, found their argument. It states distinctly,—

That the Churches of England and Ireland, as now by law established, shall be united into One Protestant, Episcopal, Church, to be called the United Church of England, and Ireland; and that the “Doctrine, Worship, Discipline, and Government” of the said United Church—

(not one word about Temporalities)—

shall be, and shall remain in full force, for ever, as the same are now by law established

I know that, in the year 1825, no less a Statesman than Mr. Canning,—for whom no man can entertain a more sincere respect than I do, from every personal feeling—(for he was the first friend I had in public life),—said, that he thought these arguments conclusive, not only against Reduction, but against Inquiry. He rested his opposition to the Motion of the Honourable Member for Middlesex on this ground alone, and asked the House—

Whether it were possible to pass a Resolution for a Committee of Inquiry consistently with that Statute?—The Compact, which had been made at the Union, might be broken; but, until that was done, Parliament could not, without a violation, which would lead to the apprehension of violations of all kinds, concur in the Resolution of the Honourable Member.

The same line was taken by the Right Honourable Baronet, the Member for Tamworth; and it has been followed, most perseveringly, by the Honourable Baronet, the Member for the University of Oxford, whose absence, on the present occasion, I see with great regret, knowing the cause, to which it must be ascribed.

Now, without indulging in anything like casuistry, or special pleading, on this point, I cannot help saying, that, when I couple the declaration made by Mr. Pitt, in his Speech before the Union, to which I have already referred, with the omission of the word “Temporalities” in the Act of Union itself, I think I have a right to assume, that

it was not intended by the Government of that day, to include the Temporalities of the Irish Church in the provisions of the Fifth Article.

COLONEL PERCEVAL.—No ! No !

Mr. WARD.—Sir, I repeat the assertion ! I believe that it was the intention of Mr. Pitt to confine the operation of that Article to the objects expressed by the words specifically introduced into it,—namely, the “ Doctrine, Worship, Discipline, and Government ” of the United Church, all of which I would hold sacred. I merely wish to confine their operation to the circle, within which alone they can operate beneficially.—namely, the circle of the Protestant Episcopalians in Ireland, who constitute the Church, and who, as a Church, will, I hope, always continue united with our own.

But even supposing that it was the intention of those, who framed the Act of Union, to include in it the Temporalities of the Church,—I say, that they had no right to bind future generations ! They had no right whatsoever to preclude the future Representatives of the two Contracting Parties, in Parliament assembled, from agreeing, by common consent, to modify that Act, in any way, which the common interests of the two Countries might require. I have high authority for saying this—the highest in England at this day—I mean the present Lord Chancellor, who met Mr. Canning on this ground, in 1825, and said, —

Much had been said of the Compact of the Union between Great Britain and Ireland, and of its inviolability ; yet who that looked at the previous Union between Scotland and England, but must be convinced, that it was *incidental* to such Treaties, or Engagements, to be subjected to the future consideration of the Legislature.

Lord Brougham gave, as an instance of this, the abolition of Heritable Jurisdiction in Scotland, within forty years after the Union, by common consent, although the right had been specially reserved by the Act of Union ; and he added—

Taking into consideration the state of the Church in Ireland, and the state of the Population, who, though obliged to support that Church, received no benefit from it,—it was “ *monstrous* ” to assert that such a system should never undergo Legislative Revision.

These were the opinions of Lord Brougham, when he sat in this House. I might push the argument further,—I might ask, whether this House would prefer an Union in name, to an Union in reality ? Whether it would prefer the form to the substance ? But this is not necessary. The question is no longer a question of principle, but a question of degree. The principle was conceded, last Session, in the

Irish Church Reform Bill; for there is not one principle contained in the Resolution, which I shall move to-night, which was not acted on in that Bill, although in a modified shape. You dealt then with the Bishops,—prospectively,—as I wish to do now. You reduced their number by one-half;—you abolished Vestry-cess;—and you even laid an Income-tax upon existing Incumbents, which is more than I have proposed to do, for I wish to hold sacred all existing rights. I repeat, therefore, that this is no longer a question of principle, but simply of degree; and those, who are disposed to oppose the Motion on the plea of principle, must seek some other ground of opposition than the Act of Union.—Well, then, are there any other grounds of opposition? Have we a right to deal with Church Property at all?—(for we come now to the general question)—or are there, in the state of Ireland, some peculiar circumstances, which render the exercise of that right particularly dangerous there?

With regard to the general question, as to our right to deal with the Church Property at all,—the opinions of so many Members of this House have been so frequently, and so strongly, expressed, that I hardly feel it necessary to trouble the House by referring to them. I shall, however, select one or two. In the first place, I will quote the observations of the Noble Lord opposite, on his own Motion on the State of Ireland in 1824; and I beg to assure the Noble Lord, that I do so without the slightest wish to embarrass him, or to pin him down to a particular course, by a partial, or garbled quotation, but merely with a view to strengthen my own case, by recalling to the recollection of the House what have been, and I trust are, the opinions held upon this subject, by some of its most distinguished Members. The Noble Lord said—(May 11th, 1824):—

If it should appear that, by a different distribution, or even by a diminution, of the Revenues of the Church, the People might be less alienated from that Church than they now were, he did not think that, in recommending such a measure, he should be proposing anything inconsistent with the prosperity of the Church Establishment in Ireland.

The House will perceive by this, that, between the Noble Lord and me, it is clearly a question of degree. Lord Brougham in the following year (1825), exclaimed, with reference to this same subject, in his own emphatic manner—

God forbid, that he should contend that the Church had the same power over its property, which Individuals had over theirs.—There was no sort of analogy between them.—The Church received its property for the performance of certain services; but Private property was held unconditionally.

As late as the year 1830, I find even the Honourable Member for Essex (Mr. Baring) rising in this House,

To enter his protest against the doctrine, that, in no case was it competent for Parliament to meddle with the Property of the Church, which was to be held as sacred as any Gentleman's Private Property!

What the state of the Church of Ireland might be, he did not pretend to know; but this he did know—that there was a power in the three branches of the Legislature, to revise the distribution of its property.*

Sir, these are sound, and practical, opinions. They are borne out by the practice of every European Nation, and are, moreover, in conformity with the sentiments of some of the most eminent of our own Divines. Warburton distinctly states that,

The Alliance between the Church, and the State, is not irrevocable. It subsists just so long as the Church thereby established maintains its superiority of extent; which when it loses, to any considerable degree, the Alliance becomes void. For the United Church being then no longer able to perform its part of the Convention, which is formed on reciprocal conditions, the State becomes disengaged.

Again, he says:—

The adventitious advantages derived by the Church from the State, must be defended by the State as long as the Union lasts. But when the Union is dissolved, they both fall together, without any essential damage to the Church as a Religious Society.

Paley uses yet stronger language, for he begins his Chapter on Religious Establishments, by saying—

A Religious Establishment is no part of Christianity. It is only a means of inculcating it..... Its authority is founded upon its utility.

And he adds—

There is nothing in the nature of Religion, as such, which exempts it from the authority of the Legislature, when the safety, or welfare, of the Community requires its interposition!

And again:—

If the Dissenters from the Establishment become a Majority of the people, the Establishment itself ought to be altered, or modified. Bacon who, though no Divine, is a great authority, says, in his Treatise on the Pacification of the Church, —

I would only ask why the Civil State should be purged, and restored, by good, and wholesome, laws, made every third, or fourth year in Parliament assembled,—devising remedies, as fast as time breedeth mischief;—while, contrariwise, the Ecclesiastical State should still continue upon the dregs of time, and receive no alteration.

* Debate on a Petition from Cork, in 1830, praying for a change in the Irish Establishment, and signed by 58 Magistrates, and 3000 Protestants.

These, Sir, I repeat, are the doctrines of sound, common sense ; and, as such, they were acted upon by our Ancestors long before they were laid down in Books. They had no scruples, at the Reformation, in transferring the property of the Catholic Church to the Ministers of that Creed, which became the Creed of the Majority of the people. They knew that the " adventitious advantages," of which Warburton speaks, ought to cease with the Alliance which had given birth to them ; and, the moment that Alliance was dissolved, they transferred the property of the Catholic Church, both in England, and Ireland, to the Ministers of the Reformed Religion. What the State then gave, the State has the power to resume, upon the same principle ; that is, if we find it necessary for the good of the Community ! If, (to use the words of the Noble Paymaster of the Forces, on the 13th of July, 1832,) we find—

That the Protestant Church in Ireland is too large, not only for the wants of the Protestant Population, but for its own stability.

Or that—

What was intended by our Ancestors in the Establishment of the Church of Ireland, for Religious, and Moral, purposes, had not answered that end.

This is the real question, which we have now to determine ; and not only has the Legislature a right to examine into this question,—to sift, and probe it, to the very bottom—but the people of England have a moral right to call on this House to discharge this sacred duty, and to modify, remodel, or recall altogether, the Charter of the Ecclesiastical Corporation in Ireland, if it be found not to have answered the ends of its institution.

But, said the Right Honourable Baronet, the Member for Tamworth (on the 13th of March, 1832), such an interference in Ireland would be peculiarly dangerous. Look at the old Confiscations :—

If a prescription of 300 years can plead nothing in favour of Church Property, how unlikely is it that a prescription of 150 years can plead in favour of the settlement of Lay property.

Now, the force of this argument depends on the fact, whether Church property is regarded by the people of this country (as I Conceive it to be, universally) in the light of Trust property, or not ? If it be so regarded,—if it is held to be what Grattan calls it, " the salary of prayer, and not the gift of God, independent of the duty," it cannot be, in any way, injurious to Lay Property to interfere with it. As to the old Confiscations,—I will appeal to the Honourable, and Learned, Member for Dublin to say, whether it is possible to interfere in any way with

the Acts of Settlement under Charles, and William, however harsh, or unjust, the provisions of those Acts may have been without destroying the Titles of every one of those Catholics, who have acquired property in land since the relaxation of the Penal Laws? We may, therefore, fairly set the interests of the present generation against those of the Representatives of the old proprietors of the soil, and trust to them for the maintenance of Acts, which it is impossible now to revert to, without bringing down upon us the fabric of society itself. Sir James Mackintosh has a passage upon this very subject in his last work, which is so apposite, and so powerful, that I shall beg leave to read it to the House,—and it is the last quotation, with which I shall trouble them. Speaking of the Irish Confiscations, he says:—

It is one of the most malignant properties of extensive Confiscation, that it is *irreparable*. The land is sold to honest purchasers: it is inherited by innocent children: it is made the security of creditors:—its safety becomes interwoven, by the Complicated transactions of life, with all the interests of the community. One act of injustice is not to be atoned for by the commission of another, against Parties, who may be equally unoffending.

To the influence of these feelings we may safely trust for the maintenance of the Acts of Settlement as they now exist; and I will venture to predict that the feeling will only be strengthened by any measure, that gives tranquility to Ireland, and enables her to develop those resources, with which nature has so richly endowed her, but of which, by a singular combination of misfortune, and misgovernment, she has been prevented, hitherto, from availing herself.

Sir, my task is now drawing to a close. I have argued the question of Necessity. I have argued the question of Right. I have shewn that, in the opinion of many of our most eminent Statesmen, the present system in Ireland cannot go on: that we war against nature itself in endeavouring to uphold it. I have shewn that a great change in this system must take place, before we can hope to witness that identification of interests, and of feelings, between the two Countries, which it must be the object of all to bring about: and I have shewn, moreover, that the remedy is in our hands. I now, therefore, call upon this House not to shrink from the duty of applying it. I call upon the House most earnestly, and solemnly, to reflect upon the tremendous consequences, which the decision of this night must have, not only upon Ireland, but upon the Empire at large! If we look to Ireland, I ask any Irish Member, who hears me, without distinction

of party, or politics, whether his hopes of public tranquillity—I might almost say of domestic peace—do not depend on the settlement of this question before the ensuing Winter? For, when I talk of tranquillity in Ireland, I do not mean that tranquillity, which we are accustomed to enjoy in this more favoured part of the Empire,—I mean, simply, an exemption from scenes of anarchy, of rapine, and of blood,—of which those can form no conception, who have never been exposed to their withering influence. If we look at home, we shall find that the character of this Reformed House must depend, most materially, on the decision, which we are about to pronounce. We have evaded this question once,—We can do so no longer! It is now brought fairly forward—not mixed up with the question of the Irish Tithe Commutation Bill; but, as a substantive question, on which the Country has a right to expect an explicit declaration of opinion from all concerned, and, more particularly, from the Right Honourable Gentlemen opposite, who have always stated, that, whenever the time for making such a declaration arrived, they would not shrink from it.

Sir, I have said that the character of this House, as far as England is concerned, depends on the decision of this night, and I will not recall one word of this assertion!—Where, I ask, is the Constituency, occupied as all now are with questions flowing out of the great question of Religious rights, before which any Member can hope to justify a vote, upholding, in all its magnitude, the Colossal injustice of the Irish Church? Where is the Dissenter, who can give such a vote, sanctioning, as he must do by it, the principle, that it is *not* upon the basis of population, that an Establishment ought to rest? Where is the Scotch Member, who will give such a vote, and disgrace the noble lessons of his Ancestors, by contributing to rivet the chains of a Country, which has struggled less successfully, but not less justly, than his own?

As to the members of that Church, to which I myself belong, I think myself entitled to address to them a few words of earnest warning. Let us not endeavour to serve the cause of the Church of England at home, by connecting it with the cause of injustice in a Sister Country! The cases of England, and Ireland, are now perfectly distinct. It will be our fault if they are, hereafter, confounded. The Church of England still rests on the broad basis of Population. It still maintains its hold on the affections, and respect, of a great proportion of the English people; and it is my most earnest wish, and prayer, that it may long retain it! But I feel most deeply convinced that it can only do

this by conforming to the spirit of the times, in which we live. By withholding no just rights—by opposing no just demands—by conceding to its opponents, here, every Civil privilege, which they are fairly entitled to ask,—and, above all, by not attempting to perpetuate, in Ireland, a system, which is not less at variance with the just rights of man, than it is with the mild, and pure spirit, of Christianity itself.

If I am told that it is easy to declaim on such a subject as this, but very difficult to legislate,—I, at once, deny the fact. I say, look at Scotland! Look at that Statute, which gave peace to her, after fifty years of oppression, and suffering! It contained just twenty lines;—and twenty lines would suffice now to restore Ireland to tranquillity, if they contained an assurance, as this Statute does, that, in the future distribution of Church Property in Ireland, due regard should be shewn to the Religion of the vast Majority of the People.

If I am told that this Religion is not the *true* Religion, and that we ought not to sacrifice to political expediency the sacred interests of Truth,—I again deny the fact. I say that with Truth, as Legislators, we have nothing to do! We have to look to Civil Utility alone, as the basis of the connexion between the Church and the State; and if we once wander from this strong ground, there is no predicting the consequences, which must ensue? Who is to be the Judge of Truth, except One, to whom, in this world, there can be no appeal! Where is the source of Truth, except in that Sacred Volume, from which, in all times,—aye, even down to the present day,—the most opposite conclusions have been drawn, upon points of doctrine, at least, by the wisest, the most virtuous, and the most conscientious, of mankind! Look at the consequences, again, of adopting this principle! If we maintain the Established Religion to be the only *true* Religion, the State must follow up this doctrine! It must enact Test Laws for its protection. It must put down all who reject it! Sir, it was in the name of Truth that the Spanish Inquisition was established; and Louis XIV. was never more intimately convinced of the Truth of his Religion, than when he desolated the fairest Provinces of France in its name, by the revocation of the Edict of Nantes! These were the effects of maintaining the Established Religion to be the true Religion in Catholic countries. But let us not forget, Protestants as we are, that it was in the name of Truth that Ireland was cursed with the Penal Laws! Sir, I have no wish to dwell upon this hateful topic; but when I see—and I do not use the term irreverently—how in

this case at least, the sins of the fathers have been visited upon the children, unto the third, and fourth, generation—when I see what a plentiful crop of strife, of disorganization, and of blood, has been borne by the seed sown in 1704, when the attempt was made to degrade, and brutalize, the whole Catholic population, by a series of legislative enactments—I feel that there cannot be a man in the assembly, which I am now addressing, who would ever again consent to sully the pages of our Statute Book by unjust, and partial, laws, enacted in the name of Truth.

If I am told that the people of England are not prepared for the adoption of such principles as these, and that, at all events, it is useless to moot them here, because they will never receive the sanction of another branch of the Legislature,—I, once more, deny the fact!

The people of England *are* prepared for the adoption of the principles of Justice, and of Religious Toleration, to the fullest extent of the terms; and, as to the other branch of the Legislature, we have nothing to do with it. We ought neither to court, nor to fear, its opposition! Let this House but discharge its own duties honestly;—let it place itself in the van of public opinion, instead of lagging, tardily, behind;—let it, above all, redeem that Pledge, which it has so recently, and so solemnly given,—“*to remove all just causes of complaint in Ireland, and to promote all well-considered measures of improvement,*” —and I will venture to predict that its influence will be irresistible!

Sir, the path of duty—I had almost said the path of honour, when I looked to our late Address—lies open before us. Time has worn away those obstacles, which Mr. Pitt was unable to surmount; and that vision of Conciliation and of Peace—(I use his own words—and most remarkable words they are)—which he saw in the distance, but which he was unable to realize, is now within our grasp. Let this House, by its vote of to-night, calmly and deliberately, but firmly—resolve to enter on this path,—the path of duty, and the path of honour,—and so far am I from apprehending that the people of England will ever desert us, in the attempt to assert what I believe to be the cause of true Religion—of just, and equal, rights—that I am convinced that every honest heart, and voice, will be with us, and that the blessings of Millions will cheer us on our way.

Sir, I feel how inadequate my efforts have been to do justice to the importance of this great cause. I trust that the exertions of others will cover my deficiencies; and

that it will receive from the House that full measure of deep, and earnest, consideration, to which its own merits so justly entitle it.

With these feelings,—with these wishes,—with these hopes, I shall now proceed to move ;—

“That the Protestant, Episcopal, Establishment in Ireland exceeds the Spiritual wants of the Protestant population ; and that, it being the right of the State to regulate the distribution of Church property, in such manner as Parliament may determine, it is the opinion of this House that the Temporal possessions of the Church of Ireland, as now established by law, ought to be reduced.”

APPENDIX.

ARMY ESTIMATES.

MILITARY FORCE IN IRELAND.

				Infantry and Cavalry.
1825	.	.	.	20,364
1826	.	.	.	20,875
1827	.	.	.	19,451
1828	.	.	.	20,863
1829	.	.	.	23,259
1830	.	.	.	19,845
1831	.	.	.	19,081
1832	.	.	.	19,462

From 1st April, 1833, to 31st March, 1834.

Ireland.—Officers, Non-commissioned Officers, and Privates, Garrisons, &c. £1,025,621

POLICE FORCE.

1830	.	.	.	£256,663
1831	.	.	.	268,119
1832	.	.	.	287,192

REPORT FROM SELECT COMMITTEE ON EDUCATION, 1828.

AMOUNT OF GRANTS.

Charter Schools	.	.	.	£1,105,869
Association for Discourtenancing Vice	.	.	.	101,991
Kildare-place Society	.	.	.	170,508
				<hr/>
				£1,378,369

GIFTS FOR CHURCHES AND GLEBE-HOUSES, FROM 1801 to 1815.

From 1801 to 1811	.	.	.	£156,815
1811 to 1812	.	.	.	36,670
1812 to 1813	.	.	.	20,850
1813 to 1814	.	.	.	20,150
				<hr/>
				£234,415

First Fruits received, about 400*l.* per annum.

ACCOUNTS OF THE TRUSTEES OF FIRST FRUITS.

N.B. It is impossible to make out from these Accounts the Balance of the Advances in the form of Loans.

POPULATION ABSTRACT OF 1831,—7,767,401

Of these 569,840 are Presbyterians, viz.:—

Presbyterians of Ulster	559,828
Synod of Munster	5022
In other Provinces	5000

Total . . . 569,840

Evidence of Rev. H. Cooke, Moderator of the Synod of Ulster,—1828.

In 1812, Wakefield estimated the Episcopalian Protestants at one-Fourteenth of the whole population.—No reason to suppose that they have much increased.

RETURN FROM THIRTY-SEVEN PARISHES IN THE DIOCESE OF OSSORY.—(Mr. Finn).

POPULATION IN 1731* :—	
Total . . . 16,487	Protestants . . . 1935

POPULATION IN 1831 :—	
Total . . . 64,225	Protestants . . . 1453

[*Return made by Protestant Bishop to House of Lords in 1731.]

Thus, while the Total Population has quadrupled in 100 years, the number of Protestants has fallen off by one-fifth, not as compared with the *whole*, but as compared with its own amount in 1731.

The Protestants, in the most Protestant parts of Ireland, are subdivided into an infinity of Sects

In the "Protestant Town of Belfast," as it rejoices to be called, 20,000 out of 60,000 Inhabitants, (one-third) are Catholics. The other 40,000 worship as follows;—

There are 3 Established Churches
2 Houses of Unitarian Presbyterians.
5 General Synod of Ulster.
3 Seceders
4 Methodists.
1 Independent.
1 Quaker.
1 Baptist.

—
20

(Only 3 out of 20, Episcopalian.)

Such is the Picture of Episcopacy in Belfast, and in all the region round about! It is everywhere feeble, and, in comparison with other Sects, declining. How idle then is it to talk of State connexion, and immense Revenues sustaining Religion, or even Protestantism.—*Letter from —, communicated by Mr. Ruddel Todd.*

PRESBYTERIANS IN 1834.

Synod of Ulster	200	Congregations.
The Seceding Synod	120	Ditto.
Unitarians	40	
Covenanters	20	

—
380

Besides Methodists, &c

RETURNS FROM SEVENTY PARISHES.

County	Parishes	Catholics	Protestants	Value of Livings.	Observations
Sligo	9	41,934	5,048		About one-third Dissenters.
Westmeath	8	37,664	2,874		
Roscommon	9	40,573	1,062		
Kerry	3	18,077	135		
Cork	3	23,979	252		
Longford	13	59,127	3,633	£6,898	
Monaghan	5	22,965	555	{ In these five parishes, the value of which is £4,326 annually, there is not one resident rector or vicar	The Vicar of Donamoiné, which is worth £1230 per annum, holds another living worth £200
Mayo	13	61,668	225		
Louth	7	17,007	253		
	70	329,003	14,037		

About 1 Protestant to 23 Catholics, on the whole of the 70 parishes.—But the proportion varies from 1 in 9, which is the maximum, to 1 in 16—40—95—134 and 287.

In the 7 parishes of the County of Louth 17,007 Catholics pay nearly 3000*l.* a-year, in all, for the exclusive benefit of 253 Protestants, 45 of whom are Dissenters. (Mr. Bellew, M.P. for the County of Louth.)

Leitrim county (parish of Cloone) 19,774 Catholics, 789 Protestants; value of living, 1449*l.*; residence of Rector unknown; has not resided for 40 years.

Average 1 in 23.

RETURNS FROM TWENTY-ONE OTHER PARISHES.

County	Parish.	Value.	Cath	Prot	Diss.
Leitrim	Annaduff	£950	4,962	360	1 in 4
Return of 19 Parishes in the Diocese of Clonfert			85,700	2,155	

(In one, only 11 Protestants to 2345 Catholics; in another, 28 Protestants to 15,772 Catholics; in a third, 9 to 3991. The largest number is 830 Protestants to 6300 Catholics.)

Kildare	Union of Carbery	400	9,348	739	Quaker. 1
			100,010	3,254	or,

average about 1 in 30. In lieu of which I take something more than 1 in 14, when I estimate the Episcopalian Protestants at 600,000 in all.

CHURCH REVENUES.

Bishops' lands.—Number of Acres,—669,247		
Rent	.	45,258
Fines on Renewals	.	75,422
		<u>£120,680</u>
Ecclesiastical Corporations	.	£ 23,606
Total number of Benefices	.	1456
Those from which Returns have been received	1184	Income. 526,136
Add one-fourth for 272 Returns not received	.	131,534
		<u>£657,670</u>
Total		
Glebes attached to Benefices, and not included in Returns		
at 30s.	.	Acres. 85,000
	.	£135,500
TOTAL.		
Bishops' lands	.	120,680
Deans and Chapters	.	23,606
Glebes	.	135,500
Returns of Tithes	.	657,670
		<u>£937,456</u>
Total number of Benefices	.	1456
Of which 74 range from £800 to £1000	.	
„ 75 „ 1000 to 1500	.	
„ 17 „ 1500 to 2000	.	
„ 10 „ 2000 to 2800, which is the maximum.	.	

There are 407 Livings ranging from 400*l.* to 800*l.* per annum. And 386 Livings exceeding 200*l.*, which is the maximum of remuneration amongst the Presbyterians of Ulster.

REGIUM DONUM.

AMOUNT AND DISTRIBUTION.

Rev. HENRY COOKE, Moderator of Synod of Ulster.

Appendix to Report of Committee on Irish Miscellaneous Estimates, 1829.

Regulated by Warrant of 1803.

Total income of Ministers of the First Class in Dublin, Armagh, Newry, Belfast, and Derry, varies from 250*l.* to 300*l.* In the Counties it may average 160*l.*, including Stipend from People, and Regium Donum.

The Regium Donum, divided into three Classes, of 100*l.*; 75*l.*; and 50*l.*

“ We hold the Grant upon fixed terms. It cannot be withdrawn

from an individual without being withdrawn from the whole Body.

The Crown has no control over the appointment of Presbyterian Ministers.

Since it has been understood that the Regium Donum was not to lead to any undue influence on the part of the Government, it has been in the highest degree satisfactory to the people, and I think they have, generally, looked upon it with as much gratitude as the Ministers have.

They objected, at first, to the system of Royal Bounty; but, with a few exceptions, I conceive these objections went off like a cloud, in the course of a year or two, and the benefit of the system has, uniformly, since, been felt, and acknowledged, both by Ministers, and by the People.

Amount of Grant, in 1829, to Presbyterian Ministers in Ireland, 14,360*l*.

L O N D O N :
Printed for the Proprietor of the "MIRROR OF PARLIAMENT,"
3, Abingdon Street, Westminster

POLITICAL UNIONS

NOT CONTRARY TO LAW,

THE KING'S PROCLAMATION

EXAMINED,

IN AN ADDRESS,

BY THE NATIONAL POLITICAL UNION.

Printed by W. Barnes, 44, Bridge-house Place, Newington Causeway :

**SOLD AT THE OFFICE OF THE NATIONAL POLITICAL UNION,
LEICESTER PLACE, LEICESTER SQUARE.**

1831

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National Political Union.

At a Meeting of the Council, held Nov. 28th, H. B. CHURCHILL in the Chair, it was moved by ERSKINE PERRY, seconded by the Rev. W. J. FOX, and carried unanimously :

That the following address be published.

By order of the Council,
ROWLAND DETROSIER, Sec.

THE King's proclamation respecting Political Unions and other political societies, has drawn the attention of the public to the laws relating to such societies, and made every man desirous of information respecting the particular laws to which it alludes.

The council of the National Political Union, from the moment of its appointment, was determined to obey every law in existence, however much some of them might be repugnant to reason, unjust, or mischievous: however much they might obstruct the increase of knowledge, and support bad government, or for whatever other evil purposes they might have been intended.

The council of the National Political Union are not only desirous that the laws should be understood and obeyed by the members of the Union, but that every man in the nation should be equally well informed, that all may be prepared when the time comes to unite their efforts to procure the repeal of these new fangled laws, so inimical to the "rights and liberties," and well being of the people.

These laws are of two kinds.

The one relates to taxes on knowledge.

The other relates to political associations.

The proclamation has reference only to the latter, and to these therefore the attention of the reader will be directed.

That the subject may be better understood and more duly appreciated than it is likely it would otherwise be, a slight and rapid sketch will be exhibited of the circumstances which led to the formation of societies to procure a reform in the

Commons House of Parliament, and of the means which have from time to time, and more especially by acts of Parliament, been resorted to, to prevent this all desirable and pre-eminently useful purpose being accomplished.

A proclamation is not law. The present proclamation* does not pretend to be law. It does not even specifically point out the law against the infringement of which it cautions the people, but leaves every man to find it out as he best can.

It has therefore become the duty of the National Political Union to afford the means, otherwise difficult of attainment, and thus, whilst they promote the observance of the law, hold out an inducement to every honest man, who by means of a reform in Parliament is desirous to promote the peace, and increase the prosperity and happiness of his country, to enroll himself without delay either in the National Political Union or in some other legal union. Thus he will not in the day of trouble, which the want of union may produce, have to reproach himself with having neglected his duty, and thereby brought on himself and others a multitude of evils which a slight exertion made in time would have prevented.

The struggle to procure an adequate and equal representation of the people in Parliament may be traced to the time, when the House of Commons first attempted to emancipate itself from the direct control of the King, and to assume its proper place as a branch of the legislature.

This was consequent on the accession of James I, and from that time to the present, attempts have occasionally been made to accomplish the much desired and desirable object.

Many were the projects during the reigns of the Stuarts, some of them possessing considerable merit; many the occasional associations into which numbers of the better informed people were forced by the bad conduct of the government; and acts of violence on the one side or the other, or on both, were the usual and almost inevitable consequences. In the reigns of William III. and Anne, milder proceedings were adopted, and a system of undisguised corruption was substituted for violence. The nation, or rather those in the nation, whose circumstances were at all likely to be improved by in-

* See it in the Appendix.

terference in matters of government, were divided into two rancorous parties, the Whigs and Tories, though sometimes known by other names, the object of both being the plunder of the people.

The aim of the Tories was the establishment of arbitrary power in the King and his courtiers; that of the Whigs, the domination of the aristocracy. The people were nothing, but as they could be used by the one or the other faction, always to their own injury.

On the accession of the House of Brunswick, the system of corruption was more artfully conducted, and its extension promoted and perpetuated by various acts of Parliament, amongst which were the riot act of 1715, and the septennial act in 1716. These two acts greatly increased the power of the government, and abridged the liberties of the people.

There were men, however, who from the revolution of 1688 foresaw the evil consequences of the corruption and of the factions into whose power the administration of the government had fallen, and tracts occasionally appeared, pointing out the evils and predicting the results, which have since been too fatally verified. Nothing more could be done; the few who were sufficiently instructed to comprehend "affairs of state," and were not attached to one or the other set of plunderers, had no weight in the country, could form no useful associations, and venality, corruption, and arbitrary power, kept its varying course unimpeded by popular opinion, and only occasionally disturbed by partial riots, caused by want of employment, scarce seasons, and peculiar local oppressions.

Men however began to procure information and to think for themselves, the progress was remarkably slow, but its consequences were seen, felt, and feared.* Measures were therefore taken to counteract this growing intelligence, and every occasion was carefully watched and eagerly seized to depress the people and arm the government against them.

Many propositions had been made, some in, but more out of Parliament, to restore the ancient practice of annual parliaments, and at length a formal proposition was made by the earl of Chatham in 1770 to reform the House of Commons, by "an addition to the county members, as a balance against the weight of several venal and corrupt boroughs."

In 1776, John Wilkes "moved for leave to bring in a bill

for the just and equal representation of the people of England." The motion was seconded by alderman Bull, but being opposed by lord North, was lost without a division. It is somewhat remarkable that Mr. Wilkes even at this time should have proposed that "the mean and insignificant boroughs, emphatically styled the rotten parts of the constitution, should be lopped off, the electors transferred to the counties, and the elective franchise extended to the rich and populous towns of Birmingham, Manchester, Sheffield, Leeds, and others."

From this time, motions were almost annually made for reform of Parliament.

In 1775, Mr. Burgh* recommended a general association of the people, for the purpose of petitioning, and he prayed the King† to recommend to the Parliament the bringing in of bills "for restoring annual Parliaments, and making the representation of the people adequate."

In 1776, Major Cartwright, having had his attention strongly drawn to the state of the representation by the proceedings against the American colonies, and having thrown up his commission rather than fight against his American brethren, who were being slaughtered because they would not submit to taxation without representation, became an advocate for parliamentary reform. Having duly considered the matter, he took his stand on three great principles, namely—"annual parliaments, universal suffrage, and voting by ballot," and from these he never deviated during the very long life he devoted to the service of his fellow citizens. It has been said that this excellent man was the father of parliamentary reform, this as has been shewn is an error, but that he was the father of organized societies, to obtain by an union of the people a thorough reform of the Commons House of Parliament, there can be no doubt at all. It was these societies which gave the first impulse to the body of the people, it was the speeches, addresses, and various other publications of these societies which spread a knowledge of political proceedings, induced the people to inquire, and led them to demand a fair and equal share in the government; to prevent which, the bad laws to be presently noticed were enacted.

In the year 1799, meetings were held in the great county

* Political Disquisitions, vol. iii, p. 434.

† Ibid, p. 433.

of York, under the auspices of the Rev. Mr. Wyvill, which led to similar meetings in many other counties, cities, and boroughs, and to the appointment of delegates to consult on the best means of promoting a reform of Parliament, but no regularly organized society was established; they however laid the foundation of the society, which in the spring of 1780 was formed by Major Cartwright and others, under the title of the "SOCIETY FOR CONSTITUTIONAL INFORMATION, designed to convey to the minds of the people a knowledge of their rights, principally those of representation."

This society corresponded with various persons and bodies of persons, and published a number of excellent tracts, which it distributed, gratis. Among the tracts thus printed and distributed was one in July 1780, the "REPORT OF THE SUB-COMMITTEE OF WESTMINSTER." On the 2nd February 1780, a public meeting of the electors of Westminster appointed a committee, and on the 15th March, that committee appointed a sub-committee*, which made the Report alluded to. The Report, which is ably and admirably drawn, contains a "Plan for taking the suffrages of the whole people," and it recommends "Annual Parliaments, Universal Suffrage, and Voting by Ballot."

The committee to whom the Report was made, met on the 18th July 1780, when a "vote of thanks was passed to the "chairman and the members of the sub-committee, for the "very intelligent report made by them, relative to the election of members to serve in the commons house of parliament."

It was also voted "That the report of the sub-committee "be printed, and copies sent to *the several committees* of the "counties, cities, and boroughs of this kingdom."

"CHARLES JAMES FOX, Chairman."

It should be here noticed, that many counties, cities and boroughs had committees, that they appointed delegates who met many times, at the Thatched House and St. Albans taverns, and that *Mr. Pitt* was one of those delegates. All societies, committees, and delegates being then legal; no one indeed ever questioned their legality, and laws subsequently

* The Chairman who signed the Report was the celebrated THOMAS BRAND HOLLIS.

passed, acknowledged them to have been legal, by enacting that they should no longer be so.*

The Society for Constitutional Information, in other publications also maintained and propagated the doctrines of annual parliaments, universal suffrage, and voting by ballot. Yet this was not a society composed of RABBLE.

The Duke of Norfolk was president.

It contained Seven other Noble Lords.

Several Baronets.

Eight Aldermen of London.

Ten Clergymen.

And amongst other celebrated men, Major Cartwright, the Earl of Derby, Thomas Erskine, Sir William Jones, Dr. Price, the Duke of Richmond, Sir Samuel Romilly, Alderman Sawbridge, Richard Brinsley Sheridan, Sir John Sinclair, John Horne Tooke, Dr. Towers, Shipley, dean of St. Azaph, Sir Cecil Wray, and the Count Zenobio.

* These 'meetings of deputies' were attended by many of the most respectable men in the country, and would have been attended by many more, had it not been thought advisable that no member of either house of parliament should be appointed to the office of deputy. All the deputies were appointed at public meetings.

Of these deputies the Rev. Mr. Wyvill was usually the chairman, and the following names appear on the list of their proceedings.

<i>Deputies for</i>		<i>Deputies for</i>	
Sir Thomas Hildyard	} Yorkshire	Sir Francis Vincent	} Surrey
Mr. J. Smith		Mr. Trecothick	
— J. Townsend	} Middlesex	— Bugden	} City of London
— Prescott		Alderman Crosby	
Rev. Mr. Bomsley	} Westminster	— Kirkman	} Notts. Town.
Col. Fitzpatrick		Mr. Holder	
Mr. T. Grenville	} Sussex	Major Cartwright	} Gloster
— T. Brand Hollis		Sir William Grise	
— Frankland	} Herts.	Sir W. Codrington	} Gloster City.
— Webster		Mr. Barrow	
— Peckham	} Hunts.	Lord Mahon	} Kent
— Jennings		Mr. Streathfield	
— Baker	} Bucks.	Rev. Dr. Ryecroft	} Newcastle
— Hyde		Mr. Grieve	
Dr. Jebb	} Dorset	Sir R. Smith	} Essex
Mr. Thornhill		Mr. French Chiswell	
— Seare	} Cheshire	Mr. Chichester	} Devon
Lord Althorpe		— Fortescue	
Mr. Hany	} Cheshire	— Tollemache	} Cheshire
— Chapman			

Wyvill's Political Papers, vol. 1, p. 109, et seq.

The coalition in 1783 between Lord North and Mr. Fox destroyed, for a time, all confidence in public men and the society was not so well supported as it had been, it however continued to meet to publish and distribute tracts till the autumn of 1787. It was revived in 1791.

In the memorable year 1792 was formed the "*London Corresponding Society*" and the "*Society of the Friends of the People** the first to promote annual parliaments and universal suffrage, the second a more limited reform, both were corresponding societies, both called upon the people to form political associations, to communicate with one another, and to take all legal means to promote reform. On the 6th of May 1793, the Society of the Friends of the People presented their admirable and justly celebrated petition to parliament, great irritation prevailed; the violent proceedings in France, with the extraordinary success of the allied despots in the early part of the year, encouraged the ministry at home to adopt the most extraordinary proceedings, and the secession from the whigs of the Duke of Portland, Lord Fitzwilliam, Mr. Burke, Mr. Windham, and others, increased their arrogance beyond all bounds; but when a reverse of fortune befel the combined despots, on the continent, and the people began to countenance reforming societies at home, the administration led by Pitt, Grenville, and Dundas became exceedingly irritated, a system of terror was adopted, and carried to an extent, of which no one who was not then an observer of political events can form an accurate conception. So strictly legal however were the proceedings of the great political associations, and of those with which they were immediately connected, that eager as the government was to prosecute them, no pretext could be found.

Ministers therefore encouraged the employment of spies who became members of these societies, and more especially of the London Corresponding Society, and these miscreants from time to time proposed measures which had they been adopted would have led to serious breaches of the law, the good sense of the members defeated all such attempts. The result however proved that notwithstanding the government spies could not mislead the societies, they could and did mislead their plot

* At the head of this society was Charles Grey, esq. and twenty-two other members of the house of commons, supported by a large number of popular and influential persons.

seeking and plot fomenting employers, who in their eagerness to establish arbitrary power caught at every thing likely to promote their purposes; and having thus collected what the excellent Earl Stanhope called a "suspicion of a suspicion of High Treason" they indicted twelve men, who were or had been members of either the Society for Constitutional Information, or of the London Corresponding Society, and arraigned them at the bar of the Old Bailey on charges of (constructive) Treason; fortunately for the country the false evidence of the miscreant spies failed them, and after a nine days trial of Thomas Hardy, a seven days trial of John Horne Tooke, and a five days trial of John Thelwall, all of whom were acquitted, they abandoned the proceedings. Fortunate indeed were the acquittals, for a fact has since transpired which shews that a long list of intended victims, men in all ranks of life, from the present noble premier downwards, was made out and would have been proceeded with. Where or when such a proscription, in such hands, would have ended, or what might have been its fatal consequences, no man alive can tell, that it would have been horribly destructive of life, of property and of liberty, there can be no doubt at all.

Failing in their schemes, the administration had recourse to green bag plots—secret committees and reports; and it may be readily believed that they who had so basely attempted men's lives, would contrive to have reported any thing and every thing they might wish, and so it was. The nation alarmed by the bug-bears conjured up by ministers, ignorant too as the people of that time were on all political matters as compared with the people of the present time, there being in fact no political public, ministers were enabled to create the utmost terror, and by means of a boroughmongering parliament to pass any acts they pleased. Two bills were therefore introduced, one in the Lords relating to treason, and another in the Commons relating to sedition; they were passed in December 1795, and were known as the Pitt and Grenville Acts. So little, however, were the people accustomed to have their popular rights questioned, that even in the then agitated state of the country, when to be an avowed reformer was to incur the imputation of a desire to perpetrate the most atrocious crimes, the government did not venture to proceed to any thing like the extent to which it afterwards proceeded; and the sedition bill of Mr. Pitt, much as it abridged the li-

berty of the people in many important particulars, did not extend to the prohibition of political societies having either divisions, branches or delegates, but enacted that no meeting of more than fifty persons (excepting county and other meetings named in the act) should be held under pretext of preparing petitions for alterations in church or state, unless previous notice should be given by seven householders by advertisement in some public newspaper. The act was considered a great encroachment, and its duration was limited to three years.

The Society for *Constitutional Information* and the Society of the *Friends of the People* had ceased to meet some time before the introduction to parliament of the treason and sedition bills of Grenville and Pitt, and the only one of the three great societies which remained, conformed to the act and continued its meetings as usual. The act expired at the end of three years, and thus far the people regained their liberties.

The Pitt and Grenville administration had hitherto succeeded on all extraordinary occasions, by encreasing imaginary fears, and wishing to take another step against the people, they now conjured up the bug-a-boo of a French invasion, the real purposes being, 1. To extort the means of carrying on the war against human liberty abroad. 2. As they hoped, the permanent establishment of despotism at home. Plots and conspiracies were again fomented, and when by the usual means they had been pushed as far as they could be, another denunciation was made in both houses of parliament, another green bag was introduced, other secret committees appointed and reports made, more false and infamous than those which had preceded them, and another act of parliament, to be described presently, was passed.

It was pretended that affiliated societies, associations of united Englishmen and Spenceans were violating the laws, and endangering the very existence of civilized society. A dreadful alarm was again created, the Habeas Corpus Act again suspended, and a number of persons, (about 30) were again indiscriminately seized. To put a solemn face upon this nefarious transaction, the persons seized were taken before the Privy Council, formally examined, committed to various distant gaols and therein closely and rigorously confined. No proof was ever given that any one of these persons had broken any law, no evidence was ever tendered against them, but

that of miscreant spies, and even that was taken before the secret committees. Yet notwithstanding no legal charge of any breach of law could be preferred, these persons, under the Habeas Corpus' suspension act, were detained for nearly three years, and then discharged. When however they demanded either to be brought to trial, or recompensed for the wrongs they had unjustly suffered, and when some of them took means to proceed legally against those who had thus wronged them, they were answered by a bill indemnifying all persons from the prime minister to the gaoler and thief-taker, from the consequences of any act he had committed in seizing, imprisoning, maltreating, and ruining innocent men.

Pitt's sedition act expired in 1798, and the laws relating to Political Societies may now be taken from two statutes, namely, 39 Geo. III. c. 79, passed in July 1799.

57 Geo. III. c. 19, passed in March 1817.

"The Act 39 Geo. III. is "an act for the more effectual suppression of societies established for seditious and treasonable purposes, and for the better preventing seditious and treasonable practices."

It enacts, that every society (political) shall be deemed an unlawful combination and confederacy—

1. If any member take any oath or test, or subscribe any declaration or engagement not required by law.

2. If the names of any of the members be kept secret from the society at large.

3. If it have any committee or select body, the members of which are not known to the society at large to be members of such committee or select body.

4. If it have any president, treasurer, secretary, delegate, or other officer, whose election shall not be known to the society at large.

5. If any of the names of the committee, select body, president, treasurer, and other officers be not entered in a book or books open to the inspection of all the members.

The act specially named the "London Corresponding Society" as one of the societies to be put down. This society had no secret proceedings, and it might therefore under another name have continued its existence; but it was composed of divisions, and it therefore became necessary to its extinction to include it under the following words:

6. ANY society composed of different divisions or branches,

or of different parts acting in any manner separately or distinct from each other, or of which any part shall have any distinct president, secretary, treasurer, delegate, or other officer, elected or appointed by or for such part, or to act in any office for such part.

Having declared the cases in which political societies shall be deemed unlawful combinations and confederacies, it further enacts. "That every member of any such society, and every person who shall *directly* or *indirectly* maintain correspondence or intercourse with any *such* society, or with any division, branch committee, or other select body, president, treasurer, secretary, delegate, or other officer or member thereof, *as such*; or who shall, by contribution of money or otherwise, aid, abet, or support *such* society, or any member thereof, *as such*, shall incur certain penalties."

These penalties are of two kinds.

"1. By summary process on information before one justice of the peace, on conviction, a fine of twenty pounds, or three months' imprisonment in the common gaol.

"2. By indictment, on conviction, transportation for seven years."

It prohibited then—

1. All societies having oaths, or tests, or any kind of secret proceedings.

2. All societies having branches or divisions.

3. All deputations to or from such societies, and all correspondence therewith,

It had no relation to *separate* and *distinct* societies which had *no secret proceedings*.

It did not prohibit the appointment of delegates by such societies.

It did not prohibit correspondence between or with such societies.

Thus the law remained until 1817.

In 1815 the corn law was passed.

In 1816 the "Board of Agriculture" published a book entitled "the Agricultural State of the Kingdom" it contained a horrible picture of the distress of the country, and it expressed the "apprehension of the board, of considerable declension in the amount of future agricultural production."

It was followed by partial riotings of the suffering people in several places, followed by severe prosecutions and penalties.

The administration of this period, probably the most base and mean with which this country had ever been cursed, availed itself of the unfortunate condition of the common people, and the fears of others, to push its own views so long entertained and acted on, of accumulating power for mischievous purposes; and then came the days of CASTLE, OLIVER, and EDWARDS. Three such atrocious villains, that none but the most degraded of governments would even for a single instant have had them as spies in its employment.

Men may at all times be found so out of heart with the world; so prone to evil causes, so reckless, and so ignorant, as to be ready for any kind of mischief; such men as these became the dupes, the tools, and the companions of the government spies, and the plots they engendered and matured to the best of their feeble power, were pushed far beyond those of Pitt, Grenville, and Dundass.

Spa Fields meetings—the miserable plot against the Tower, got up by CASTLE, the more unhappy proceedings of OLIVER which led to the executions at Derby. The meeting of deputies assembled in London to petition for parliamentary reform, were all cherished and promoted by ministers. These and the attack on the regent, the cause of which has never been explained enabled the government to copy the proceedings during Pitt's administration, and green bags, secret committees, and reports, at which some at least of those who assisted to make them must many times have shuddered with inexpressible shame and horror, became the business and amusement of both houses of parliament.

The result was the disgraceful act 57 Geo. III. c. 19.

It enacts that EVERY political society shall be comprehended under the provisions of the 39 Geo. III. before recited. The enactment is in the following words:

1. "Every society or club that shall elect, appoint, nominate, or employ any committee, delegate, representative, or missionary, to meet, confer or communicate with any other society or club, or with any committee, delegate, representative, or missionary of such other club or society, or induce, or persuade any person to become a member thereof, shall be liable to the penalties of 39 Geo. III. c. 79," namely, fine, imprisonment, and transportation for seven years.

2. And further, every person who shall become a member of any such society or club, or shall act as a member thereof, and every person who shall *directly or indirectly*, maintain correspondence or intercourse with any such society or club, or with any committee, delegate, representative, or missionary, or with any officer, or member thereof *as such*; shall be liable to the same penalties and punishments.

3. And also "every person who shall by contribution of money or otherwise, aid, abet, or support such society or club, or any members or officers thereof *as such*," shall be liable to the same penalties and punishments.

Such IS the law.

Disgraceful however as these two acts are as well to the legislature as to the nation, contemptible as they make both appear in the eyes of every intelligent foreigner, it is our duty to submit to them until we can procure their repeal; and in the mean time to do every thing to promote the passing of the reform bill and of all other reforms, which we are still permitted to do, for the good of our country.

The bad laws which have been quoted do not prohibit any Union from recommending the establishment of other Unions. They do not prohibit any Union from sending instructions to any body of persons for the formation of other Unions.

They do not prohibit any Union from appointing delegates to meet persons desirous of forming Unions, and assisting to conduct their proceedings *to the moment the Union is formed*, but all such interference must cease before such Union is declared to be in existence.

They do not prohibit any one from being a member of as many Unions as he pleases.

They do not prohibit any one from being a member of the councils of as many Unions as he pleases.

They do not prohibit any one from saying in any Union, or in the council of any Union, anything he pleases, as a member of the council or Union he is addressing, provided he is not, and does not take upon himself the character of a delegate.

UNION IS STRENGTH—If every man in the present crisis acted on the maxim, Ministers would at once be able to pass the bill, the King be at ease, and the nation be on the right course to a state of prosperity and happiness hitherto unknown.

APPENDIX.

BY THE KING — A PROCLAMATION.

WILLIAM R. Whereas certain of our subjects, in various parts of our Kingdom, have recently promulgated plans for voluntary associations, under the denomination of Political Unions, to be composed of separate bodies, *with various divisions and subdivisions*, under leaders *with a gradation of ranks and authority*, and *distinguished by certain badges*, and subject to the general controul and direction of a ~~superior~~ Committee or Council, for which associations no warrant has been given by us, or by any appointed by us, on that behalf: and whereas, according to the plans so promulgated as aforesaid, a power appears to be assumed of acting independently of the Civil Magistrates, to whose requisition, calling upon them to be enrolled as constables, the individuals composing such associations are bound, in common with the rest of our subjects, to yield obedience: and whereas such associations, so constituted and appointed, under such separate direction and command, are obviously incompatible with the faithful performance of this duty, at variance with the acknowledged principles of the Constitution, and subversive of the authority with which we are invested, as the Supreme Head of the State, for the protection of the public peace: and whereas we are determined to maintain, against all encroachments on our Royal power, those just prerogatives of the Crown, which have been given to us for the preservation of the peace and order of society, and for the general advantage and security of our loyal subjects: we have, therefore, thought it our bounden duty, with and by the advice of our Privy Council, to issue this our Royal Proclamation, declaring *all such Associations, so constituted and appointed as aforesaid*, to be unconstitutional and illegal, and earnestly warning and enjoining all our subjects from entering into such unauthorised combinations, whereby they may draw upon themselves the penalties attending a violation of the laws, and the peace and security of our dominions may be endangered.

Given at our Court at St. James's, this 21st day of November, 1831, and in the second year of our reign.

GOD SAVE THE KING !

THE NEWSPAPER STAMP,

AND

THE DUTY ON PAPER

VIEWED IN RELATION TO THEIR EFFECTS UPON

THE DIFFUSION OF KNOWLEDGE.

BY THE AUTHOR OF THE RESULTS OF MACHINERY.

LONDON :

PUBLISHED BY CHARLES KNIGHT,
22, LUDGATE STREET.

1836.

Price One Shilling.

LONDON :
Printed by WILLIAM CLOWES and SONS,
Stamford-Street.

THE NEWSPAPER STAMP,

AND

THE DUTY ON PAPER.

It would scarcely seem necessary, at the present day, to *define* what a NEWSPAPER is,—to determine, with logical precision, what class of publication is within the meaning of the law which, on the one hand, imposes a stamp duty upon each copy printed, and, on the other hand, allows such copy to be sent by post without charge of postage. The definition of a newspaper by the statute (60th Geo. III., c. 9) is this : ‘All pamphlets and papers containing any public news, intelligence, or occurrences, or any remarks or observations thereon, or upon any matters in church and state, printed in any part of the United Kingdom for sale, and published periodically, or in parts and numbers, at intervals not exceeding twenty-six days between the publication of any two such pamphlets or papers, parts or numbers, where any such pamphlets or papers, parts or numbers respectively shall not exceed two sheets, and shall be published for sale for a less sum than sixpence, exclusive of the duty by this Act enforced thereon, shall be deemed and taken to be newspapers.’ This is pretty clear, as well with regard to the nature of the matter contained in such newspapers, as to the intervals of publication and the price ; and yet, having reference to the nature of the matter, we are told that ‘the most dexterous legal quibbler might

be defied to shew that this does not include *every periodical whatever*, of less than two sheets, sold for less than sixpence, and not published monthly.' We are told this, not by a publisher of unstamped newspapers eager to justify his contraband trade by proclaiming it universal, but by an able and diligent writer, a member of four of the principal learned societies, JOHN CRAWFURD, Esq., F.R.S., F.R.A.S., F.L.S., F.G.S., &c., who has just published a very useful pamphlet, entitled, 'A Financial and Historical View of the Taxes which impede the Education of the People,' in which pamphlet the above assertion is made. The proof that the statute includes 'every periodical whatever,' is founded upon the following reasoning, having relation, especially, to the instances of 'The Penny Magazine,' and 'The Saturday Magazine'; 'That these periodicals are published in violation of the statutes, must be quite obvious to any one that peruses them, and whose understanding is capable of comprehending the import of ordinary words of his mother tongue. They contain, if they be good for anything, and indeed it would be difficult for them to avoid containing, "intelligence," and remarks and observations upon "intelligence," which word, *intelligence*, it scarcely requires Dr. Johnson's authority to tell us, means "commerce of information, notice, mutual communication." ' Mr. Crawford then goes on to explain, that as 'The Penny Magazine' contains notices and remarks on the fine arts, literature, and natural history, it contains '*intelligence*' within the meaning of the statute; and as it contains history, biography, statistics, and theology, it contains '*remarks upon matters of church and state*,' within the meaning of the statute. 'The Penny Magazine' is, therefore, a newspaper, because, according to Addison's definition of news, 'all matters of fact which a man did not know before are news to him.'

The definition which included a plucked cock and a man in the same category appears to us scarcely less unhappy than Mr. Crawford's attempt to define a statutable newspaper. Mr. Crawford, it would seem, relies upon the word 'intelligence,' in the statute 60 Geo. III., as rendering 'every periodical whatever, of less than two sheets, sold for less than sixpence, and not published monthly,' liable to the stamp duty. Now it happens that the word 'intelligence,' in the Act 60th Geo. III., is, with other terms of definition, literally copied from the statute 10th Anne, which first imposed a duty 'for and upon all books and papers commonly called pamphlets, and for and upon all newspapers and papers containing public news, intelligence, or occurrences;' and at the date of this statute the word '*intelligence*' had as *technical* a signification as applied to periodical works as the word *news* has now. It did not mean 'information' of a general nature, such as Mr. Crawford contends it means, upon the permanent subjects of inquiry, but news of passing events, occurrences. There can be no doubt that the words *Intelligence* and *Intelligencer* were, at the time of passing the Act first imposing the stamp duty upon certain works, as much understood to define these works as the word Newspaper is now. In the curious list of papers of 'Publick News,' which appeared in the 17th century (copied from the Harleian MSS., in Nichols's Literary Anecdotes, vol. iv.) there are 47 papers called either by the name of *Intelligencer* or *Intelligence*. Each was as common a name for a 'pamphlet of news,' up to the time of the first newspaper stamp, as *Mercurius* was during the civil wars, and for some time after. *The Parliamentary Intelligencer*, published in 1660, contains the following notice:— 'Whereas Marchmont Necdham, the author of the weekly *News-book*, called *Mercurius Politicus*, and the *Publique*

Intelligencer, is, by order of the Council of State, discharged from writing or publishing any publique *intelligence*.' We are not told that he was 'discharged from writing' upon subjects of the fine arts, literature, natural history, history, biography, statistics, and theology, which Mr. Crawford holds to be 'intelligence' in the sense of the stamp statute of Anne; he was discharged from writing 'publique intelligence' in certain 'weekly news books,' 'news,' 'intelligence,' 'public occurrences,' 'matters in church and state,' which comprise the staple of what we call 'a newspaper'; and not all the learning of the Royal Society, the Antiquarian Society, the Linnæan Society, and the Geological Society will be enabled to confound the principle of common sense, by which every man who is able to read can distinguish a newspaper from a periodical which is not a newspaper, even without the aid of a *red mark* in the corner. There are above 350 newspapers published in the United Kingdom, which pay the stamp duty: nobody could mistake these. There are, moreover, many newspapers published at the present time which pay no stamp duty: nobody can mistake these,—or say, with Mr. Crawford, that the Act in defiance of which they are published applies to all other periodicals published at prices under sixpence and at intervals shorter than a month. On Saturday the 20th of February we collected 33 weekly unstamped sheets published in London on that day. Of these, six contained 'intelligence,' according to what we conceive the statutable meaning of the word: 27 contain 'intelligence' according to Mr. Crawford's definition. The six which are *newspapers* beyond all dispute or cavil are as follows:—

- 'Cleave's Weekly Police Gazette.'
- 'Hetherington's Twopenny Dispatch.'
- 'New Weekly True Sun.'

‘ People’s Weekly Dispatch : largest, cheapest, and best newspaper in the kingdom.’

‘ Weekly Times : largest and best unstamped paper.’

‘ Weekly Times : largest, cheapest, and best newspaper in the kingdom.’

Can any one doubt that these six publications are newspapers, issued in defiance of the law, and, in the present state of the law, having a large bounty on their production? Is there any disguise in their titles? Are they not ostentatiously put forward as newspapers, having almost identical names with stamped newspapers? Would they not be ordered as newspapers from their *titles* alone? On the other hand, would any person consider, even from their titles, ‘ Chambers’ Edinburgh Journal,’ or ‘ The Doctor,’ or ‘ the Mirror,’ or ‘ The Penny Magazine,’ or ‘ Pinnock’s Guide to Knowledge,’ or ‘ The Saturday Magazine,’—which are representatives of the other class—to be newspapers, or seek in them for police news, or parliamentary news, or foreign news, or observations on matters in church and state? We are almost ashamed to have bestowed so much notice upon a position which appears so obvious; but it is absolutely necessary for us to narrow the ground of discussion, by separating newspapers from all other classes of periodical publications, before we can properly determine the effects of the stamp duty and of the paper duty upon the diffusion of knowledge.

Dr. Johnson, who, with many prejudices, did not hesitate to utter great truths without regard to their bearings upon his own peculiar opinions, happily said—‘ The mass of every people must be barbarous where there is no printing, and consequently knowledge is not generally diffused. Knowledge is diffused among our people by the newspapers.’* With all their faults newspapers have been

* Boswell.

amongst the greatest instruments of civilization in this country. No man who is worthy the name of a liberal statesman can desire to see the circulation of newspapers abridged, and, more than this, can fear that injuries can be produced by their circulation becoming co-extensive with the desire for knowledge on the part of the people.

Whatever may be the future complexion of the newspaper press of this country, there can be no doubt that every lover of our national peace and prosperity must ardently wish for the diffusion of sound political knowledge. The people of England, by the recent great changes in the constitution, have acquired the power not only of influencing the measures of government by the force of public opinion, but of controlling and directing them more immediately than at any former period of our history. It is not only necessary that the people should feel their rights, but that they should exercise them wisely and temperately. They cannot do so without political knowledge. Without political knowledge it might be possible that the nation would suffer as much from the ignorance of the many, who will influence public affairs, as from the selfishness of the few, who have influenced them. The time, however, is now past (as it passed away while some were debating whether the people should be educated at all) when it is possible to refuse the people political knowledge through the medium of cheap newspapers. The desire for that knowledge has taken a direction which is beyond the control of legislation, if legislation should still cling to a prohibitive tax in the shape of a stamp upon newspapers, which amounts to about 150 per cent. in the cost of their production. The long continued existence of several unstamped weekly newspapers in London, with a large circulation, is a proof of the impossibility of maintaining the tax at its present amount. The present character of

these unstamped newspapers is a proof also of the little danger to be apprehended upon moral grounds from the abolition of the tax. There may be a financial necessity for retaining a portion of the tax; and, beyond this, a portion of the tax may be the price necessary to be paid for maintaining the efficiency of all newspapers. We shall examine the latter question at some length as we proceed. In the meantime let us look at the evidence as to the incompatibility of the tax with our present social condition, which is furnished by the unstamped newspapers.

It may be convenient to trace, very briefly, the progress of the unstamped newspapers for the last two or three years.

The first publications of this sort were evidently set up for the assertion of opinions. Several of them originated with Mr. Owen and his disciples; and, as long as they were under the influence of Mr. Owen, they contained speculative views, which, however discordant they might appear with the general principles of our social state, were modified by a sincere desire for the improvement of mankind. The '*Crisis*' was conducted for some time under this species of management; but Mr. Owen at length withdrew his support from it, announcing that it had become 'a compound paper, containing heterogeneous opinions, some in unison with, and others opposed to, my principles, the parties conducting it thereby thinking to increase its sale.'

In 1834, the quiet mysticism of *co-operation* was overlaid by the turbulent doctrines of the *trades'-unionists*. This large and once formidable body, having had a '*Pioneer*,' which carried the principles of labour against capital even farther than the majority of unionists deemed prudent, set up an '*Official Gazette*.' This was conducted with ability; and the late Mr. Detrosier was a writer in it. The '*Pioneer*,' at the period of the greatest excitement of trades'

unions, had a sale which is said to have reached 30,000. ‘*The Poor Man’s Guardian*,’ a paper devoted to the extremest doctrines of radicalism, is said at one time to have reached a sale of 15,000. But ‘*The Man*,’ devoted to ‘universal liberty and equality;’ the ‘*Gauntlet*,’ a sound Republican London Weekly Paper; ‘*The Republican*,’ and one or two others of the same character, we are assured never reached a remunerating circulation. These publications were certainly newspapers within the meaning of the statute. They contained a great deal that was more stimulating and exciting than ordinary newspapers; they were sold at a very low price, ‘*The Pioneer*’ and the ‘*Poor Man’s Guardian*’ being only one penny; they were scarcely, if at all, molested by the application of the stamp laws; and yet they could not maintain their ground commercially. They were, eventually, nearly all, if not all, destroyed by the success of those unstamped newspapers which set themselves about giving *intelligence*, rather than inculcating opinions. The ‘*Weekly Police Gazette*,’ and the ‘*Weekly Dispatch*,’ (unstamped,) very soon reached a sale of 20,000; and at the beginning of 1836, when other papers of a similar character had started up, there is very little doubt that the more successful of the class, including the two earliest which we have just mentioned, had a sale quite unprecedented in the history of newspapers, not being much less than 40,000 or 50,000 of each number. The opinions expressed in these papers are, no doubt, sufficiently strong, but, upon the whole, they do not appear to us more strong than those of many of the stamped weekly papers that advocate the necessity of sweeping changes; and there is in all of them a remarkable absence of that personal slander, upon which several of the weekly stamped papers have founded their sale. In point of fact, the information which these unstamped newspapers

are called upon to furnish, must be of a varied and general nature,—such as will suit a very large number of readers; for without a large number, they could not exist. The support which they derive from advertisements is small; and the price at which their article is sold, low as it is, becomes still lower to the proprietor, by large allowances to retailers. A careful computation has satisfied us, that, making no charge for the peculiar disadvantages under which they must carry on their trade, (some of them, we understand, incur three rents for publishing offices,) neither of the six weekly unstamped papers that we have mentioned, as being in course of publication during the last month, could be brought out so as to return the expenses incurred, with a sale of less than 10,000 copies weekly.

The existence of the heavy stamp duty upon legalized papers is the bounty that has given so large a circulation to the illegal unstamped papers. It is not that their opinions, as some persons have represented, (and truly so, with reference to the unstamped papers published a few years back,) are so captivating by their violence, that they are eagerly read by a multitude desirous of anarchy and plunder; but it is, that the poor man, desirous of knowing what is passing around him, can, through this channel, obtain for twopence that for which he must pay sevenpence through the channel sanctioned by Act of Parliament. It is very natural, therefore, that the poor man should prefer the ‘Weekly Police Gazette’ and the ‘Twopenny Dispatch’ to the ‘Sunday Times,’ or even to the ‘Life in London.’ The unstamped papers have now a large monopoly, and that monopoly enables them to be sold as low as twopence. Their monopoly,—that of the power of publishing without a stamp in defiance of the law,—enables them to rely upon a much larger body of customers than newspapers in general can count upon,

for their remuneration and their profit. If there were not remuneration in most cases, and profit in some, they would not exist. They stand thoroughly upon commercial grounds. They have penetrated into the market, which, for the first time, was ever counted upon by the speculators in newspaper property. With the solitary exception of these unstamped papers, a newspaper was never yet set up which counted upon indemnity from loss, through its sale alone, to a large body of purchasers. All stamped papers (with the exception of one or two sold at higher prices than ordinary) have counted upon the collateral advantage of advertisements; and this collateral advantage enables at least nine-tenths of the three hundred and fifty stamped newspapers of the United Kingdom to subsist or prosper: whether they would subsist or prosper better, if the great market into whose skirts and corners the unstamped newspapers have entered were thrown open to all, is a question which we shall have to examine. That there is such a market the large sale of the unstamped newspapers, in holes and hiding places—under every sort of difficulty—without the means of free circulation—condemned even by many of those who encourage them—is to our mind sufficient evidence, if other evidence were wanting. The conductors of these papers have been legally wrong, but they have been commercially right. They saw they had the cheap market open to them, though imperfectly open; and they have regulated their price by the probable demand in that market.

The success of the present unstamped newspapers (and of their success there can be no reasonable doubt) has established the fact—that a cheap newspaper press is called for, by the desire amongst the mass of the people for the species of knowledge which a newspaper supplies. The avidity with which they now purchase a contraband article may, in

some cases receive an impulse from the circumstance that it *is* contraband; but in this, as in every other manufacture that admits of smuggling, the success of the illegal trade is only a manifestation of the greater success that would uncontestedly result if the whole trade in the article vended largely as contraband were disencumbered of restrictions and duties. The legal newspaper trade of the United Kingdom is exceedingly small. The total number of newspapers published is 356; the total number of stamps supplied is about thirty-six millions. This number is, indeed, nearly double that of the stamps issued at the beginning of the present century, but it has unquestionably not kept pace with the desire for knowledge amongst the mass of the people, and has not advanced in a ratio very far beyond the increase of population. In the United States of America, on the contrary, there were in 1834, 1,265 distinct newspapers, having an aggregate circulation estimated at about seventy-five millions annually. The American newspapers, as is well known, have no stamp, and are circulated through the States at a very small rate of postage. The population of the United Kingdom being twenty-four millions, and the newspaper stamps issued being thirty-six millions, we have a newspaper and a half annually to each of the population. The population of the United States being thirteen millions, and the newspapers issued being about seventy-five millions, we have six newspapers annually to each of the population.

But there is a circumstance in the comparison of the newspaper circulation of the United Kingdom and of the United States, which, we apprehend, has not been sufficiently regarded. It has been made a matter of reproach to us, and alleged as a proof of the injurious effects of the newspaper stamp, that whilst America possesses 1,265 distinct newspapers,—that is, about one distinct newspaper for every

10,000 of the population, the United Kingdom possesses only 356 newspapers,—that is, one distinct newspaper for every 70,000 of the population.* There is, however, another point of view in which this difference is to be regarded. Of the 356 newspapers of the United Kingdom a total of thirty-six millions of copies are annually circulated, which gives a circulation to each paper of 100,000 annually. Of the 1,265 papers of the United States about seventy-five millions are annually circulated, which gives a circulation to each paper of less than 60,000 annually. The average circulation, then, of an American newspaper, is not quite six to ten, compared with the circulation of an English newspaper. If these seventy-five million American papers were all weekly, we should see that there was an issue of 1,134 papers upon each publication of each separate paper. But 90 of the American newspapers are daily; and these, without doubt, have the larger circulation. Assuming a circulation only of 1,500 for each daily unstamped paper in the United States, their 90 daily papers would consume forty-two millions of sheets of paper out of the seventy-five millions; and the remainder would shew a circulation of about 540 copies each for the remaining 1,175 papers. The English newspapers (we mean of course the stamped) have, with a few striking exceptions in London, and still fewer in the country, an average circulation, under 1,000 of each number. The returns of stamps supplied to our provincial papers shew 800. We shall be able, by another process, to arrive at the same conclusions with regard to the sale of the American papers. There is no doubt that the average sale, with all the advantages of low price, is less than our own, of separate papers in the United States.

* The proportion is somewhat different in Great Britain; England and Scotland have 276 Newspapers in a population of 16,000,000, or one distinct Newspaper for every 58,000 of the population.

This is a state of things which, in our view, would be destructive of the chief value of newspapers in this country, were such to be the result of the abolition of the stamp. Were the *numbers of separate papers* published to increase largely, without a proportionate increase in the *quantities of each paper printed*, they could not be published at a commercial advantage, except upon a very small scale, adapted to petty local interests. Such an increase of the mere number of distinct newspapers published would divest them of their national and district character, and change them into vehicles for parish politics and village scandal. The subject is an important one, and we must examine it somewhat in detail.

The number of separate newspapers in the United States, (1265,) as compared with the population, (thirteen millions,) gives one distinct newspaper for every ten thousand of the population. If every adult male, therefore, bought a newspaper, the average circulation of each distinct paper would not much exceed 2,000. But, however strong may be the desire of political knowledge, and however cheaply that knowledge may be supplied, it is not at all probable that a newspaper is bought by one adult male in three. This we take to be about the average circulation of each distinct paper in the United States; that is, an issue of each, daily, semi-weekly, and weekly, of about 700. But in the densely-populated States the proportions are even less. Massachusetts has 108 papers for 610,000 inhabitants, which is one paper for every 5,700; New York has 267 papers for 2,000,000 inhabitants, which is one paper for every 7,500; Pennsylvania has 220 papers for 1,400,000 inhabitants, which is one paper for every 6,400; Ohio has 140 papers for 94,000 inhabitants, which is one paper for every 6,800. Taking the average of the Massachusetts, New

York, Pennsylvania, and Ohio, there is one paper for every 6,600 inhabitants. Upon the calculation, therefore, that one adult male in three buys a newspaper, the circulation of each number of each paper in these States would not exceed 550. This species of circulation is, no doubt, well suited to the necessities and desires of the people of the United States, or it would not exist, unshackled as it is by any tax or Government regulation. There can be no doubt that with a few exceptions in the large commercial towns, *the newspaper circulation of the United States is essentially local.* To establish a newspaper in the United States is almost as easy an operation as to raise a log hut. As soon as a settlement is formed, the store, the tavern, the chapel, and the newspaper spring up as a matter of course. The newspaper may be carried a hundred miles by the post for a cent, (about a halfpenny), and yet be as strictly local, owing to the spare population, as the newspaper that is carried from Manchester to Oldham. This character of the newspaper press of the United States is precisely what is called for in a new settlement. It is satisfactory to those who are clearing lands, and cutting roads, and rearing towns, and digging canals, and surrounding themselves as fast as they can with all the appliances of civilization, to see their interests represented, their labours recorded, and their contests or agreements made matter of importance in a weekly print. The legislative and judicial proceedings of their own State of course form part of the record, and are next in importance. Then come the proceedings of Congress, and then European politics, and arts, and literature. As the little town grows, fresh newspapers spring up; and two newspapers, like two attorneys in a town, often thrive better than one. A newspaper that has it all its own way is a dull affair. But it is a long time before the newspaper of a young

American settlement becomes of the importance of even an English *provincial* newspaper. This either represents the stirring interests of a large town, which interests are connected with every pulsation of the heart of the empire, or spreads over some large agricultural district connected in its parts by all the various ties and associations which arise out of the habits that proceed from Englishmen managing their own affairs in concert. *The character of the English press is not essentially local.* Of the 171 papers of England published out of London, of the 42 published in Scotland, and of the 80 published in Ireland, there is not one that does not, more or less, feel it necessary to make business arrangements, and employ considerable mental activity, for the purpose of keeping pace with the general news of the empire. It is this character which, perhaps more than anything else, has neutralized whatever is evil, and given double effect to whatever is good, in the newspaper press of England. This state of our press has been created by the free circulation of newspapers by the post, and by the opportunities which that free circulation has afforded of comparing one newspaper with another, and thus of holding the narrow elements of local interests, and local passions and local prejudices in subjection to, or in concert with, the larger elements of national principles and feelings. Local interests, no doubt, claim a prominent share of the attention of newspaper conductors, and it is of the utmost importance that whatever is corrupt should be held in check, and whatever is honest and beneficial should be cherished and supported, by complete local publicity. The British provincial newspapers do their duty in this respect, as it appears to us, for the most part, vigilantly and fearlessly. They are enabled to do so by the independent position which a very large proportion of them commercially hold. In the attempt

to make newspapers more accessible to the great body of the people, we must be careful to preserve the efficiency of those which exist, and to increase, if possible, their efficiency, by opening the channels of circulation as widely as possible to them. We are not desirous to see, under the abolition of the stamp-duty, the separate newspapers of this country quadrupled in a quarter of a century, as the newspapers of the United States have been. We believe that such an increase of separate newspapers would deteriorate the character of *all* newspapers, by rendering it impossible to conduct them with commercial advantage as they are at present conducted. No legislative change with regard to the newspaper tax could in some instances produce this deterioration; but there are many instances in which a violent change might produce it. Let us endeavour to separate the cases.

The stamps last recorded as issued in the course of a year to the papers printed and published in London amount, in round numbers, to twenty millions. Of these about nine millions and a half were consumed by the morning papers, about one million and a half by the evening papers, about three millions by five weekly papers, and the remaining six millions by all the remaining papers published in London. The six MORNING PAPERS are—the *Advertiser*, the *Chronicle*, the *Herald*, the *Post*, the *Public Ledger*, and the *Times*. We generally speak of five morning papers, as the *Public Ledger* has a peculiar commercial circulation, out of which it is little known. These morning papers are, in a very considerable degree, *the foundations of all the general intelligence of the empire*. The adaptation of means to an end, whether the means are those of mental combination or of manufacturing arrangements, in the production of these papers; is one of the most remarkable of the efforts

of civilization exhibited in this or any other country. The morning papers, although each has a common object, have no co-operation, no division of expense, except in one or two very trifling particulars, such as the Court news. They have each, in many instances, their own correspondents in the principal European countries; they each pay for foreign expresses; they each have a standing *corps* of reporters throughout the year, with a considerable addition to that body during the parliamentary session. They have each a principal editor, and several assistant editors; they have each a distinct printing establishment, and distinct offices for publication. The cost of all this array is enormous. The permanent expense incurred for the literary production alone of a first-rate morning paper, disbursed in the salaries of editor, sub-editors, reporters, translators, foreign correspondents, travelling expenses, is not less than £15,000 per annum. This gives a cost, for each number published, of about £50. The daily printing expenses, exclusive of paper and stamps, would amount, upon an average, to £25 for each number. Here, then, is an expense of £75 to be incurred every time a daily morning paper goes to press, whether it sell 1,000 or 10,000 copies. If it sells a thousand copies only, those thousand bear an expense of £75. The actual receipt for 1,000 newspapers is about £24. Here is a loss, therefore, upon the sale of 1,000 copies, of above £27; the paper and stamps not yet being reckoned. These, for 1,000 copies, cost nearly £18. Here is a positive loss, therefore, of £68 per number—of £408 per week—of £21,216 per year, for a daily morning paper that sells only 1,000 copies, and has no advertisements. If a morning paper is started and is unsuccessful, the sacrifice upon the outfit must necessarily add to the risk of the experiment; and thus the common report that a celebrated bookseller lost

£20,000 in a very short time by a speculation of this nature may be readily understood to be no exaggeration. How, then, will it be said, do morning papers thrive under such circumstances? The answer is easy. In this, as in every other case of literary enterprise, the permanent expenses are diminished as the circulation of a work is increased. The expenses that told as £75 upon the sale of 1,000, will only tell as £25 per 1,000 upon a sale of 3,000; and so, when a sale of 12,000 is reached, they will only tell as £6. 5s. per 1,000. At a sale, therefore, of 12,000, the permanent expenses being £6. 5s. per 1,000, and the cost of 1,000 stamps and paper being about £18, the returns from the sales exactly meet all the expenses. But then comes the great item of advertisements. One hundred advertisements a-day will give a profit of £8,000 per year, 200 of £16,000, 300 of £24,000, and so on. This is the golden dream which some newspapers have realised; but, for all new experiments, there is the frightful certainty of very considerable if not enormous loss before any material sale can be established, and, consequently, before advertisements can be obtained. The great improvements of the morning papers have chiefly caused the large permanent expense which renders loss almost certain to a new competitor. In 1782 there were ten morning papers published in London; they were very small papers. The system of reporting was very imperfectly carried out; and the entire expenses, both literary and mechanical, of producing a daily paper, were comparatively small. Their circulation was necessarily small; for, to say nothing of other causes, before the introduction of the printing machine, the circulation was naturally limited by the mechanical difficulties of production. Mr. Perry introduced a more complete system of reporting when he became proprietor of the *Chronicle*; and gradually, up to

1814, morning newspapers were increased in size and improved in quality. Then came the invention by which the *Times* was printed by steam. The barrier to a large circulation was passed; and, from that time, the morning papers reached an importance, commercially and politically, which they had never before attained.

Before the application of machinery to the printing of newspapers in 1814, there were as many daily London newspapers as at present; but their average size was much smaller than those now published.* The number of each paper printed was less than at present; and the later news was much more incompletely given. The mechanical difficulties of printing a large number within a limited time required to be overcome by arrangements which involved a considerable expense; and thus less capital was left to be expended upon that branch of the outlay by which the excellence of a newspaper is mainly determined,—namely, the novelty, the completeness, and the accuracy of its intelligence. Let us take, for example, the *Times* newspaper for some years prior to 1814, when it began to be printed by machinery. When that paper was originally established, somewhere about forty years ago, the present system of reporting speeches in parliament on the same night that they were spoken was scarcely ever attempted. A few lines mentioning the subject of the debate, and the names of the principal speakers, were sometimes given; but anything like a sketch of the general debate, or a report of any remarkable speech, was deferred to a future day, if it were published at all. Mr. William Woodfall, the son of the celebrated

* The writer of this pamphlet described the effects of this new mechanical power, as applied to Newspapers, in a periodical work published in 1833; but as the description illustrates the general subject, he has introduced it here with some curtailments.

printer of the *Public Advertiser*, in which the Letters of Junius first appeared, undertook, without any assistance, the arduous task of reporting the debates of both Houses of Parliament, day by day, in his father's paper, and afterwards in other daily journals. The remarkable exertions of this most famous of reporters gave the newspapers for which he wrote a celebrity which compelled other newspapers to aim at the same fulness and freshness in their parliamentary reports. What Woodfall accomplished by excessive bodily and mental exertion, his contemporaries succeeded in bringing to a higher degree of perfection by the division of labour; and thus in time each morning newspaper had secured the assistance of an efficient body of reporters, each of whom might in turn take notes of a debate, and commit a portion of it to the press several hours before the whole debate was concluded. Perfect as these arrangements had become at the beginning of the present century, it is manifest that during the session of Parliament, at least, when newspapers are most interesting, their circulation must have been necessarily limited by the mechanical difficulties of their production. We must explain this a little more in detail. A newspaper, being made up of many distinct articles, does not require, as a book does, that the whole of the types of which a sheet is composed should be set up before one side of it is printed off. The outer side of a daily paper, which ordinarily consists of advertisements, communications, and paragraphs of minor importance, may be printed off some hours before the inner side, which contains the later news, is ready to be printed. Such an arrangement, of course, would prevent the whole paper being filled with the latest news, as is now frequently the case; and thus all the papers printed before the invention of the machine will be found to be constructed with reference to this principle of having one

half printed long before the other half was ready to be printed. But let us see how that half which contained the last intelligence was brought out previously to 1814. If we refer to such a paper containing a report of any great parliamentary debate, we shall find the speeches generally given of a length not proportioned to their importance, but to the time of the evening in which they were delivered. Those reporters to whose share the earliest speeches fell gave them fully, because there was time for printing them; and this fulness left little space for the more important speeches which at that period generally closed the debate. The quality of reporting was therefore injured by the brevity required for all speeches delivered after midnight. Without this sacrifice the paper could not have been published at all on the day whose date it bore; and even with this sacrifice the difficulty of meeting the demand was excessive. The only mode in which it could be met was by setting up a portion of the paper in duplicate,—that is, setting up two sets of types, so that two presses might be engaged in printing it off at the same time. Sometimes in large papers, such as the *Times*, a page only was worked at one press, to enable the pressmen to proceed with great speed. If the House of Commons now sits to four o'clock, and the *Times*, or the *Chronicle*, or the *Herald*, cannot be ready for printing off till six o'clock at the earliest, the papers are nevertheless published, so that the country and the town may be supplied without intermission. In such a case, before the introduction of the printing machine, the morning coaches would have departed without a paper, and the people of London would have received them at the hour of dinner instead of that of breakfast. The printing press will, at the ordinary rate, enable two men to take off 250 impressions in an hour. By the most violent exer-

tions the pressmen of a daily newspaper were enabled, with relays, to work off about 500 copies in an hour. One press would therefore produce 10,000 copies in about 20 hours. It is manifest that such a rate of speed, if such a quantity were demanded, would be incompatible with the production of a daily paper, the condition of whose existence is that it must be wholly printed and issued in 24 hours. Let us double the speed by printing in duplicate; and we find that 10,000 copies can be produced in about 10 hours. But even this rate carries the publication of several thousands of the 10,000 printed into the next afternoon. We may, therefore, assume that without triplicates, which we believe were never resorted to, no daily paper previous to 1814 could aim at the sale of a greater number of copies than could be printed off even with duplicates in six hours—of which number the publication would often not be complete till after mid-day. The number printed of the most popular daily paper, would therefore be limited to 5,000; and this number could not be produced in time without the most perfect division of labour aiding the most intense exertion, provided that paper were printed by hand. The *Times* newspaper has produced 10,000 copies in two hours and a half from one set of types.

The present excellence of the London daily papers, (we are not adverting to their advocacy of opinions,) their fidelity in reporting, and their rapidity in publishing whatever can interest the entire population, is the real cause of what some people (foolishly enough, we think) call their monopoly. This monopoly, if we must call it so, is preserved exactly as the cotton monopoly is preserved—by the investment of capital, and by the exertion of talent. The introduction of the steam-press has enabled the morning papers, still more exclusively, to retain their power and influence. Their pos-

session of the most important field of newspaper action is not, as we conceive, in the slightest degree affected by the large amount of the tax upon newspapers. The London papers are sold only for cash, or, what is the same thing, upon a credit of only a few days to the vender. Any person who can raise £100 can purchase 7,000 of the present stamps, and thus a capital of £100 would, as far as the stamp is concerned, enable a new daily paper to be started. With a very low stamp, or with no stamp at all, there would unquestionably be a considerable increase in the total quantities of morning papers circulated—most probably a two-fold increase at the least. This extension of the market would in all probability draw new capital into this field of enterprize, but those in the possession of the field would greatly have the advantage. No change in the tax, therefore, would in our opinion lessen the efficiency, by deteriorating the character of the London morning papers. The readers of daily papers are too experienced in the quality of the article to which they have been accustomed to be content with any intelligence produced without the ordinary expense and exertion. In the event, however, of any great increase in the mechanical facilities of printing (which is probable), and of any great increase in the rapidity of conveyance (which is certain), *a short law of copyright*—a copyright of even three hours,—for the protection of newspapers would be *necessary*. Such a law would be *just* even now. The only condition which in our view is essential to the efficiency of the morning papers, whether bearing a high stamp, or a low stamp, or no stamp at all, is an *unrestricted circulation by the post*.

The improvements of morning papers have created
EVENING PAPERS. When Mr. Perry took the Chronicle

it was not unfrequently published at eight or nine o'clock in the evening. With the heaviest parliamentary debate, a debate not closing till six in the morning, the daily papers are now out by nine or ten o'clock in the morning. Between nine o'clock in the morning, and four in the evening, there is abundance of time for the completion of other daily papers, which are for the most part made up of the materials of the morning papers with some additional materials derived from original sources. When the morning papers were not unfrequently published till the evening, there were no evening papers properly so called. But now the morning papers have either been sent off to the country by the early coaches, or they have done their work in London, before the evening papers are published. The present daily evening papers are the *Courier*, the *Globe*, the *Standard*, and the *Sun*. Rivals as they may appear to be of the morning papers, and deriving as they do immense advantage from the original labours of the morning papers, the evening papers indirectly assist in their circulation. Between four and five o'clock the evening paper takes the place of the morning in nearly all the clubs, and coffee-houses, and hotels, and taverns in London; and the morning paper is duly sent off by post to some purchaser at half-price in the country. The cost of producing an evening paper is of course much less than that of a morning paper. The whole thing is upon a smaller scale—the literary staff is less by threefourths. In round numbers we may say, that the loss upon an evening paper without advertisements selling 1,000, would be £25, selling 2,000 would be £20, selling 3,000 would be £14, selling 4,000 would be £8, and selling 5,000 there would be scarcely any loss. The distance between loss and profit to be reached by advertisements is, even with the diminished expenses of an evening paper, very considerable

and thus we hold that with a reduced stamp, or no stamp at all, the temptations to new speculations in this field would be beset with great hazards. The present evening papers would, no doubt, under any change, maintain their ground and extend the amount of their sale; but for the preservation of their efficiency, perhaps even more than for that of the morning papers, there is one condition absolutely essential,—an *unrestricted circulation by the post*.

Before the daily evening papers commenced to be published, there was a large class of very useful papers almost exclusively adapted for country circulation. In 1782 there were nine papers published in London THREE EVENINGS each week. Of this class of papers there are now, we think, only four:—the *Evening Mail* connected with the *Times*, the *Evening Chronicle* connected with the *Chronicle*, the *English Chronicle* connected with the *Herald*, and the *St. James' Chronicle* connected with the *Standard*. The connexion that we mention is one of commercial arrangement. A great part of the types which have been used for the daily paper are employed on that which is issued on alternate days. Very little expense is incurred in the production of these papers, and their sale is therefore, we believe, a remunerating one. In Scotland there are several papers of this class, but, with the exception of the 'London Gazette,' there is no London paper we think published twice a week. There is only one semi-weekly provincial paper in England—the 'Liverpool Standard.' There are thirteen in Scotland. It appears to us that upon any considerable reduction or total abolition of the stamp duty, a great demand will spring up for this description of papers, not only in London but in the country. It is worthy of remark that in the London Agents' list of Irish papers, the number of

papers published once a-week, is not greater than those published twice a-week, or three times a-week. The Irish papers are cheaper than the English, owing to the stamp being two-pence. The English people, in all expenses that occur periodically, are in a very great degree the creatures of habit, and having been accustomed to pay about £1. 10s. a year for a weekly newspaper, they will continue to pay £1. 10s. for a newspaper twice a-week. For the success of this class of papers however, whether issuing from London or the provinces, the absolute condition is an *unrestricted circulation by the post*.

The LONDON WEEKLY PAPERS, which are for the most part published on Saturday for the post, and on Sunday morning for the town, are of very various and opposite characters. Those which cater to the prejudice and ignorance of the high and the low vulgar have the largest sale. We cannot conceive that any irruption of new papers upon this market, produced by an abolition or a large reduction of the stamp duty, would be a great public evil. The best of the London weekly papers—those, we mean, which can be received in decent families as presenting a careful compilation of the news of the week, unmixed with pruriency, or scandal, or violent attacks upon public men—will double and treble their circulation. Those which are adapted only for pot-house politicians, or for politicians of a higher rank not much elevated above the pot-house in feeling, will, we think, retrograde or remain stationary. Without an *unrestricted circulation by the post*, the London weekly newspapers would necessarily become essentially more local. It may be very well to have a greater number of local papers in London—papers that would represent the interests, for example, of the metropolitan boroughs; but for the

mass of the London papers, the necessity of adaptation to the tastes and habits of thought of the provincial reader would keep them free from some of the sins of presumption and intolerance which so easily beset the circles of a large metropolis holding, for the most part, exclusive opinions. The looking forth out of the din and smoke into the atmosphere of the provinces keeps down some of the peccant humours of those who represent these opinions. To maintain a circulation, however, in the provinces, under a different stamp system, the London weekly papers must not only be remarkable for their talent and industry, but must aspire to a higher character for integrity than, as a body, they can now pretend to. There are several honourable exceptions, and these are well known; but, with these exceptions, we incline to think that the present *unstamped* press of London is as well conducted as the weekly *stamped* press. The reason is to us very obvious. The unstamped press must depend upon a very large circulation amongst the general mass; and these must always include a great portion of those who, whatever be their rank in life, know that respectability of thought and conduct is essential to every station. The conductors of such papers cannot therefore deal in personality or indecency as the staples of their trade. The cheap market is not yet subdivided into customers who demand these things. If the cheap market should become a legalized market we have no doubt of the general improvement of papers of all sorts. Especially we look to this general improvement in their advocacy of political opinions. The time, we hope, is fast passing away when a distinction shall be attempted to be made between the ability of the great and that of the humble to comprehend a political question. We do not believe that all newspapers with an expensive stamp must necessarily be the advocates of social order, and

especially the defenders of the rights of property. We do not think that a low-stamped newspaper must, to be acceptable to the poorer classes of readers, put forward doctrines which have for their object the subversion of all society, and the establishment of anarchy upon the ruins of law. We believe that the humbler classes of newspaper readers are not to be captivated so easily as the writers of some newspapers imagine, by the arts which have such a peculiar charm in their own little coteries. On the contrary, we have no doubt that, should a reduction of the tax add greatly to the number of individual newspapers, because adding to the number of newspaper purchasers, those papers will have the best hope of a large circulation who deal with great political subjects, not in the spirit of partisanship, and therefore of insincerity, but with an honest, trustworthy, and comprehensive spirit. Those, as we think, will be the most popular, who take the elements of political philosophy for their guides, and, above all, recollect that they are addressing a people who have recently become invested with political power to a much larger extent than they ever before possessed it. The people, if we know them rightly, will not be led away from a deep sense of the responsibilities of that power by the sophistry or the violence of any phrase-maker, however skilful he may be in his vocation. The good sense of the British community will give the preference to the soundest adviser; and that adviser will ever be found the most honest, and we believe, in the long run, the most attractive, who rests upon facts and principles which take no colour from the false opinions of the hour.

Of PROVINCIAL NEWSPAPERS there are 171 in England, consuming annually about 7,000,000 stamps. This exhibits an average circulation of 800 of each number for each paper. The greater proportion of these papers issue from

the larger towns, though of course many of them have a considerable district circulation. For example, Bath has 5 papers, Birmingham 4, Brighton 4, Bristol 4, Exeter 4, Hull 4, Leeds 3, Leicester 3, Liverpool 9, Manchester 6, Newcastle 3, Nottingham 3, Northampton 3, Sheffield 3, Worcester 3, York 5. These towns, as will be evident from reading the list, are local capitals from which the newspapers circulate. Many of the provincial papers are distributed principally by newsmen (not general dealers, as in London, but exclusively attached to the establishment), and many of them by post. The whole of these newspapers are sold upon credit, either to the agents of the proprietors or to individual customers, with whom there are separate accounts. The outlay for stamps forms therefore a very serious part of the capital necessary for the establishment of a provincial newspaper; and this very circumstance, no doubt, prevents many new competitors from entering the field. In other respects the publication of a newspaper is a very tempting object to a provincial printer or bookseller. It gives him influence and connexion; it employs an establishment at a moderate cost; and it requires, under ordinary circumstances, no very great effort of commercial or literary talent. Industry in compilation from the London papers, and activity in the collection of local news, are the principal qualities required for the conduct of a country paper. In the larger towns, indeed, where great interests are constantly under discussion, and the population sympathise very deeply with all political movements, greater talent and skill are indispensable, and an editor of some literary pretensions must be engaged. Some of the provincial papers, such as the *Leeds Mercury*, for example, are models of accuracy in business arrangement, of careful compilation, of unsparing diligence in the collection of local news, and

of honest and consistent political character. A great reduction or a total abolition of the stamp duty will, doubtless, very considerably add to the number published of provincial papers, more than of any other class. Those which are limited pretty much to a local circulation must expect local competitors, and these will for some time derange in some degree the advertising interests upon which provincial newspapers mainly rely. But a great change is going forward in the whole country as to the means of *communication*. In a few years not only will the metropolis be connected by railways with all the commercial towns, but those towns will communicate with each other with the same certainty and rapidity. The post must of necessity adapt itself to these changes, for the post must always be the surest and the speediest conveyance in the empire. With an unrestricted circulation by the post, provincial newspapers having the demand for them increased by their cheapness, and the means of rapidly supplying the demand opened to them by the conquests of science, will by commensurate improvement in their own management, not only increase in their aggregate numbers, but increase greatly in their individual circulation. Without such an increase, indeed, in their individual circulation, they could not keep pace with the improvements which are going on all around them. But these improvements supply the motive and give the means of increase. They will place them rapidly within the reach of parts of the population that were formerly almost inaccessible. Wherever a railway traverses a country, a certain means of communication is established with all the district through which it passes; the towns are connected with the villages, and the villages with the hamlets. The splendid system of co-operation which is now carrying forward throughout England by the new administration of the Poor

Laws, has a corresponding tendency to enable the whole population to be dealt with in masses, by those who are solicitous for the education of the people, whether through the means of institutions, or books, or newspapers. If provincial newspapers are not to retard this great tendency of the age to centralization in its best form, they must have the means of unrestricted circulation; and there is no machinery that will give them that circulation but the post.

There is no one who has contemplated the entire abolition of the newspaper tax, who has not also contemplated the circulation of newspapers by the post upon the payment of a small rate of postage. The precedent for this mode of charging for the circulation is to be found in the practice of the United States. Magazines and pamphlets are also circulated in the United States upon the payment of a postage. We copy the following regulations upon this matter from the *American Almanack* for 1836:

‘ NEWSPAPER POSTAGE.

‘ For each Newspaper, not carried out of the State in which it is published, or if carried out of the State, not carried over 100 miles, 1 cent. Over 100 miles, and out of the State in which it is published, 1½ cents.

‘ MAGAZINES AND PAMPHLETS.

‘ If published periodically, distance not exceeding	}	100 miles, 1½ cents per sheet.
‘ If published periodically, distance over 100	, ,	2½
‘ If not published periodically, distance not exceeding	}	100 4
‘ If not published periodically, distance over	}	100 6

‘ Every printed Pamphlet or Magazine which contains more than 24 pages on a royal sheet, or any sheet of less dimensions, shall be charged by the sheet; and small Pamphlets, printed on a half or quarter sheet of royal or less size, shall be charged with half the amount of postage charged on a full sheet.’

This postage, it will be seen, is a graduated postage; but not varying for newspapers more than a farthing according

to distance. The newspapers of the United States, as we have before shown, are multiplied precisely in the ratio of local demand. Few circulate, we conceive, out of the State in which they are published; and not a great many 100 miles from their place of publication. The local character of the newspapers of the United States is an inevitable result of the immense extent of the territory. The national character of the newspapers of the United Kingdom is an inevitable result of the concentration of the territory. The returns of the amount of newspaper postage of the United States, shew, that if the low rate of postage was charged on all paper, 25,000,000 out of the 75,000,000 would go by post. But take three-fourths at the low rate, and one-fourth at the higher rate, and then 22,000,000 go by post, or about two-sevenths of the number printed. Of the British papers, at least four-sevenths go by post. Large as the amount is of American newspapers sent by post, we are still in no condition to say that the system of charging a postage could be one of practical application in this country. Of the 20,000,000 of papers annually published in London, 13,000,000 were transmitted through the General Post Office to various parts of the United Kingdom in 1830. A great number of London papers are transmitted daily and weekly by rapid coach conveyance, and a great number remain in London. But here are nearly seven-tenths of the whole number published that have circulated through the General Post. Taking the proportions of the stamps delivered to the daily and weekly papers, these seven-tenths would give a daily transmission through the post of about 25,000 newspapers; but on a Saturday, when the weekly newspapers are transmitted, the number would be about 50,000, making a total of 200,000 weekly. The number of newspapers therefore at present sent through the London post is more than the number of letters, of which 196,000 were dispatched

in an average week in 1828. The yearly total of letters transmitted through the General Post Office from London in 1828 was 10,219,000. The yearly total of newspapers transmitted through the General Post Office, from London, in 1830 was 12,962,000. But take off the stamp from newspapers, and their circulation by post would be at least doubled—it might be trebled. With the present machinery of the post-office, or indeed with any machinery but one most cumbrous and expensive, newspapers could not be circulated at all from London, if they had to be *examined* and *charged*. They now have only to be *sorted*. They are put in at the last hour, and they can only be arranged according to their places of destination. Thus it is, that although a partial examination occasionally takes place, by way of punishing a stray delinquent, a great deal of correspondence is carried on by writing on newspapers. With a doubled or trebled sale of newspapers, the mechanical difficulties of their being charged with postage are so formidable, that the advocates of this mode of raising a revenue, in substitution for the stamp, abandon their American precedent, and give up the notion of a graduated charge according to distance. Whether a newspaper go therefore from London to Windsor, or from London to Thurso, the one being 22 miles, and the other 783, the charge of postage is to be the same. But there is another difficulty, if that of the assessment of distance were got over, and that is the assessment of weight. There must be some limit, of one ounce or of two ounces, for the weight of a single newspaper. A double *Times* will weigh very nearly two ounces. If there were no limit many papers would be put under one cover. And then, again, magazines and pamphlets, and indeed every description of printed book, would be thought to have as much claim to be circulated by the post as the newspaper, provided the news-

paper did not pay a stamp duty, which gives it a privilege of circulation. The graduated scale of the United States for the postage of magazines and pamphlets, would be exceedingly difficult of application for London, from which nearly 250 periodicals issue every month. The regulations of the United States charge the postage of pamphlets at a certain rate per sheet, distinguishing between those which are periodical and those not, and charging the non-periodical much higher than the other. Who would be able to determine all these nice distinctions in the hurry of a London Post Office? We once thought that a stamped frank, regulated in price according to distance and weight, to be purchased by the person transmitting the newspaper or pamphlet, would have surmounted all the difficulty. But we have long been satisfied that the plan would be impracticable, because, being incapable of any satisfactory check, it would have opened a door to fraud of the most various description, or would have constantly led to mistakes that would have been punished as fraud. In point of fact, with the exception of prices current, catalogues, and a few other commercial announcements, circulation by post would not be advantageous in this country to any printed production, excepting newspapers.

Newspapers, in our mind, have peculiar and exclusive claims to an unlimited, and, we may add, authorized circulation by post. The whole course of our legislation and our jurisprudence is now happily one that has essential regard to publicity. Sir Roger L'Estrange, who was a 'surveyor of the printing presses' under Charles II., but who nevertheless set up an *Intelligencer* of his own in 1663, declared himself in the first number of the said *Intelligencer* against the circulation of printed news, because, as he says, 'I think it makes the multitude too familiar with

the actions and counsels of their superiors, too pragmatical and censorious, and gives them not only an itch, but a kind of colourable right and licence to be meddling with the government.' There may be some who may still think with Sir Roger L'Estrange; but their voices are no more heard amongst us. The newspaper has become indispensable to the conduct of public affairs in this country. It is the interest, therefore, as well as the duty, of those who are concerned in the administration of public affairs, to render the newspaper as efficient as possible. It stands alone in its claims to an authorized circulation by the post. Other works, however valuable they may be for the education of the people, are not so perishable as the newspaper, and therefore do not require this assistance. By commercial arrangements such other publications may be brought within the reach of the entire population at one and the same time; but the printing of the newspaper cannot be anticipated, and every means ought therefore to be directed to its rapid distribution. Of late years the Post Office has had a due regard to this point, especially since the exclusive privileges of clerks of the roads have been abolished. That this care may be maintained, and that it may be commensurate with the extended circulation of newspapers under a new system of taxation, we would not encumber the Post Office with any enormous addition of labour or responsibility. To transmit 200,000 newspapers every week from London, put up as they are singly, is a considerable labour. To transmit 400,000 in the same way,—a number that would in all probability require to be transmitted if the price of newspapers were greatly reduced,—would be a large addition to that labour; but to *assess* a postage upon those 400,000 newspapers, according to distance, or even according to weight alone, would, in our minds, involve a labour and expense

that would not be adequately purchased by any advantages to be derived from an entire absence of stamp duties. The embarrassment of such a system would not, however, end with the first labours of the Post Office. If newspapers and all other printed papers were to be sent through the Post, the receiver paying the postage, the quantities of papers refused to be taken in would be enormous, for all sorts of announcements would be thus circulated without limitation. Upon the whole, we can see no practical plan that will secure the circulation of newspapers through the Post, without an inconvenience that could be complained of from a large increase of that circulation, but A LOW STAMP DUTY UPON ALL NEWSPAPERS.

Without such a stamp duty, authorizing such a circulation, we are perfectly satisfied that newspapers would become more local and less national. There would be abundance of new newspapers, as in America, but the circulation of the old newspapers would be proportionably diminished. Their profits from advertisements would necessarily be diminished as their circulation was restricted, and their competitors became more numerous. With the diminution of their profits, their literary value would be equally diminished. They would become what the newspapers of England were half a century ago, or what the majority of the newspapers in America are now. Looking for the miserable reward to be afforded by 1,000 or even 500 subscribers, there would be penny or twopenny newspapers to be found in every thoroughfare in London, and certainly in every country town. These penny or twopenny newspapers would, in many cases, not be set up upon commercial principles, but for the dissemination of party opinions adapted to the prejudices of little knots of the population. Should we despise penny or twopenny news-

papers on account of their low price only? Certainly not. But they would be despised because their low price would prevent them having the qualities which we now require in a newspaper. L'Estrange, in announcing his *Intelligencer*, said, 'One book a week may be expected to be published every Thursday, and finished upon the Tuesday night, leaving Wednesday entire for the printing it off.' This would be precisely the state of things to which we should return if there was an inordinate influx of penny and twopenny newspapers. They would be got up by very small printers, who, if the sale covered the amount of their labour, would be satisfied; or they would be got up by attornies and electioneering agents, for personal objects. If newspapers could be sold at a penny or twopence, by very large numbers co-operating in their purchase, as in the case of such works as the 'Penny Magazine,' we should have no objection to penny or twopenny newspapers; but the necessity for rapid circulation puts an almost insuperable barrier to the full accomplishment of this result. We believe that the principle by which a newspaper could be sold cheap, and yet attain the highest point of excellence—which principle is, that it divides large expenses amongst a great body of purchasers,—would be best carried to its utmost limit of practicability by the existing newspaper establishments, stimulated by competitors moving in the same direction. A great change, however, in the mode of circulating newspapers would materially interfere with the working of this principle. Suppose all the technical difficulties of assessing a postage got over, and that a system was arranged by which the receiver of the newspaper was to pay the postage, there can be no doubt, we think, that half the post circulation would be at once destroyed, for there is no payment whatever in regard to which people are more jealous than that of postage. The expedients to

evade postage by all classes in this country are matters of every-day experience, especially to Members of Parliament, who are often asked for a flank to save 6*d.* by persons of no inadequate means. Put a postage upon newspapers to be paid upon delivery, and nine persons out of ten would at once resort to the local paper; and the triumph of the American principle would be complete. On the other hand, the smallest tax that would retain an authorized circulation of newspapers through the medium of the Post, would, in a great degree, prevent a total revolution of the present newspaper interests, and, by preserving those interests entire, preserve a standard that might indeed be improved upon, but which would be very difficult to restore if once destroyed.

If the financial minister of the day should determine, of which there can be little doubt, to make an important change in the newspaper duties, and should hold to the principle which we consider not only advantageous to all engaged in newspaper property, but to the universal public, of retaining a stamp duty that shall cover all charges of postage, he will, no doubt, in the first instance, determine the amount of that duty by financial considerations. The present duty is 3½*d.*, producing an annual revenue of £534,000. With a penny stamp, newspapers, we think, would be speedily doubled in quantity; and we further think they would be trebled in two years. But a very small reduction of the stamp, such as to 2*d.* net, would not be of the slightest use to the public. It would not put newspapers within the reach of the many, for they would still mostly be sold at 6*d.* A reduction to a penny, with the privilege of free postage, would, however, be a great, if not a final step. Such a reduction would allow newspapers, *equal in all respects to the present newspapers, to be sold at fourpence.* There is

a notion that a total abolition of the stamp would allow newspapers of *average size, and carefully conducted*, to be sold at twopence. We are satisfied that such an opinion is entirely groundless. The opinion is indeed supported on the surface by the existence of the present twopenny unstamped papers, which are of large size, are well printed, and not edited without talent and industry. But *they have a real monopoly*. The stamp duty gives them thousands of purchasers, which, upon the abolition, or large reduction of the duty, they would inevitably lose to a great extent. With a sale of 10,000, which is far above the average sale of a newspaper, they would pay their expenses at twopence. With a sale only of 4,000, they must be sold at threepence to pay their expenses. We subjoin a rough estimate, imperfect no doubt, but still useful, as exhibiting a general scale by which the comparative cost of a newspaper of moderate size, such as the *Courier* for example, may be produced with the present stamp, with a penny stamp, and with no stamp; with a corresponding estimate of its produce (without advertisements), if sold to the public at sevenpence, at fourpence, at threepence, and at twopence. The expenses are calculated upon a weekly paper, produced at a mean rate between the high prices of labour in London, and the low prices in remote parts of the country.

The *permanent expenses* of such a newspaper, which are the same whether it sells 500 or 1,000 copies, and the same whether it be printed upon paper charged with the present stamp, or with a penny stamp, or with no stamp, are nearly as follows:—

	£.	s.	d.
Editing	4	0	0
Composition	8	0	0
Office expenses, including interest upon capital	6	0	0
Total	£18	0	0

The cost of 1,000 stamps at the present rate of $3\frac{1}{2}d.$ is £13. 7s.; the cost of 1,000 penny stamps would be £4. 3s. 4d.; the cost of 1,000 sheets of paper, and the labour of printing them off, would be £4. 10s.

The paper retailed at 7d. we reckon to be sold wholesale for $5\frac{1}{2}d.*$; at 4d. for 3d., at 3d. for $2\frac{1}{4}d.$; at 2d. for $1\frac{1}{2}d.$

Expenses and Produce of each 1000 printed.	Present Stamp, Retail at 7d.	Penny Stamp, Retail at 4d.	No Stamp, Retail at 3d	No Stamp, Retail at 2d.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Permanent Expenses. . .	18 0 0	18 0 0	18 0 0	18 0 0
Paper and Press. . . .	4 10 0	4 10 0	4 10 0	4 10 0
Stamps	13 7 0	4 3 4		
Cost of 1,000	35 17 0	26 13 4	22 10 0	22 10 0
Produce of 1,000 . . .	22 18 4	12 10 0	9 7 6	6 5 0
Loss upon 1,000 . . .	12 18 8	14 3 4	13 3 6	16 5 0
Cost of 2,000	53 14 0	35 6 4	27 0 0	27 0 0
Produce of 2,000 . . .	45 16 8	25 0 0	18 15 0	12 10 0
Loss upon 2,000 . . .	7 17 4	10 6 4	8 15 0	14 10 0
Number at which the Expenses will be paid, without Advertisements.	3,500	4,500	4,000	10,000

We have already expressed our belief, that the Government will be in some degree guided by financial considerations in the reduction, or the repeal, of the stamp-duty upon newspapers. All other considerations apart, we think that upon financial grounds the Chancellor of the Exchequer will propose a small duty, a duty of not more than a penny, that

* This is about the provincial rate.

shall cover postage. A total abolition of the duty has been proposed by several persons to be made up by postage receipts, by increased paper duty, and by increased advertisement duty. In the *Companion to the Newspaper* for June, 1834, there are some very careful calculations, which have, for their main object, the establishment of this point. The present revenue derived from 100 newspapers is £1. 14s., namely,

	£.	s.	d.
Stamps	1	6	8
Paper duty	0	2	0
Advertisement duty	0	5	4
	<hr/>		
	£1	14	0

The writer supposes that, under a total abolition of the stamps, the future revenue would be increased; but to make it equal only, he assumes the following data:

	£.	s.	d.
Postage at 1d. each, 66 in 100 . . .	0	5	6
Paper Duty, a six-fold increase . . .	0	12	0
Advertisement Duty, a three-fold increase	0	16	0
	<hr/>		
	£1	13	6

Our views, as the reader may judge, are not in accordance with this calculation. 1st. Our opinion in the preceding pages has been distinctly expressed on the subject of newspaper postage. We believe that with such a postage, a less number of cheap papers would be sent by the Post than dear ones under the present arrangements. 2d. A six-fold increase in the number of papers sold, is, we also think, an unreasonable calculation, unless four pages of small quarto, got up in every parish in which a printer is

established, shall come to be called a newspaper. That two hundred and sixteen millions of such newspapers as we have at present, which upon the average must of necessity be charged threepence, should be annually distributed in this country, we cannot conceive within the limits of possibility. Such a circulation is, in round numbers, above four millions weekly, and this number requires that two newspapers should be purchased every week by every three of the adult male population of Great Britain and Ireland. But we object to the item of excise duty altogether. The excise duty upon paper, at its present enormous rate, is as great an impediment to the diffusion of all knowledge, as the high newspaper stamp is to the diffusion of political knowledge. 3dly. We have great doubts whether advertisements under a cheap newspaper system would increase three-fold. It is possible that a two-fold increase may be calculated upon, but that will not arise in proportion to the increase of newspaper circulation. The great papers, whether in town or country, will for the most part, hold their ground, and keep their prices in this department. Their new competitors will all have a toilsome hill to climb before they receive a due proportion of the amount expended by advertisers. Upon the whole, therefore, we think that a finance minister, who proposed to raise a revenue upon newspapers by these collateral substitutions, instead of by a direct tax, would find himself deceived. He would be equally deceived if, lowering the stamp, he did not lower it boldly and effectually.

It is remarkable that some of the most intelligent and honest advocates for the repeal of the stamp upon newspapers, have, up to a very recent period, entirely overlooked the

injurious effects of the duty upon paper. They have advocated the repeal of the stamp-duty wholly upon the ground that the existence of such a heavy tax is an insuperable impediment to the diffusion of *political* knowledge. But they have not seen that the exorbitant paper duty is almost in the same degree an impediment to the diffusion of *all* knowledge. The writer in the *Companion to the Newspaper*, whose calculations we have just quoted, is, as we know, a most consistent advocate for the diffusion of all knowledge; and yet his principal financial expedient for compensating the removal of the newspaper stamp was that of a probable increased amount of the excise upon paper. The deputation that waited upon the present Chancellor of the Exchequer, in 1835, to urge the abolition of the stamp-duty, were somewhat startled when a member of that deputation (the writer of this pamphlet) urged that, upon their own principles, the abolition of the stamp-duty, and the abolition of the paper duty, were equally necessary to meet the new desire for all knowledge that had sprung up amongst the people,—and that the increase of the excise duty upon paper ought not therefore to be looked to as one of the financial substitutes for the newspaper stamp. Singular as it may appear, and indeed inconsistent, Mr. Crawford in his ‘Financial and Historical View of the Taxes which impede the Education of the People,’ after having, from page 15 to 22 of his pamphlet, shown the operation of the paper duty in the repression of literary production, has, in page 52, the following passage, which indicates, at any rate, that a total or partial repeal of the duty upon paper ought, for the present at least, to be sacrificed to a total abolition of the stamp-duty:

‘Newspaper postage, however, would not be the only source of increased revenue after the abolition of the stamp-

duty. The increased consumption of paper would of course afford a very considerable revenue *with the present rate of excise duty*, and reckoning from the data already given, there would be an increase to the present newspapers of 127,500,000 copies. Let it be supposed then, that the excise duty on each of these newspapers on an average is, as commonly supposed, one farthing. This would give a net increase of the paper duty equal to £132,828.'

We consider that this clinging to the paper duty, on the part of any total abolitionist of the newspaper stamp, results from an extremely partial and narrow view of the whole moral question. In the earlier stages of the discussion, the operation of the duties upon paper might not have been understood. The newspaper stamp was a palpable evil. But now the Report of the Commissioners of Excise Inquiry upon the paper duty has rendered the operations of that duty so clear, that we are at a loss to understand how any one who sincerely desires the education of the people should ask that the one should be retained that the other might be wholly swept away. We believe, and have expressed our belief in the previous pages, that the retention of such a small tax upon all newspapers as would insure an authorized circulation to all newspapers, is necessary for their efficiency, and therefore necessary for the education of the people. What that tax ought to be, whether a penny, a half-penny, or a farthing, must be determined by experiment. The lower it is eventually, the more satisfactory will it be to us. But the excise duty upon paper stands upon no such foundation. Its existence, either in its present shape, or in a reduced shape, would give no facilities whatever for the diffusion of knowledge. It has not been asked that books, or pamphlets, or magazines, shall circulate without charge by the Post, on the ground

that they have paid an excise duty which is burthensome to the public, and more burthensome to the purchasers of books, because it has a direct tendency to discourage enterprise. However oppressive may be the tax, such a demand would be absurd, simply because books may be adequately circulated through the usual channels of commercial distribution. There can be no advantage whatever conferred upon the producers or consumers by the continuance, wholly or in part, of a tax upon paper which becomes a heavy tax upon books. The tax upon paper can only be supported at all upon purely financial grounds; and we believe that those grounds will utterly fail when the question comes to be examined whether the present duty, or a moiety of the duty, would eventually be the most productive. It is a gratuitous inconsistency, therefore, for those who advocate an unlimited diffusion of political knowledge, to stand aloof from those who demand that all knowledge shall be disencumbered as much as may be from fiscal oppressions.

The effects of a paper duty upon the production of books was foreseen upon the very earliest attempt to establish such a duty. Duties were imposed upon paper, vellum, and parchment, previous to the 10th of Anne, which is the date commonly assigned to their imposition. There was an Act for this purpose of William III., passed in July 1698, which was to repeal an Act of 1696. Of all the clumsy contrivances for raising money, the Act of 1696 was perhaps the most clumsy. It put a stamp upon every sheet of paper sold, and made Commissioners, who had offices or shops in Lincoln's Inn and Southwark, dealers in these sheets of paper. The Act of 1698 was some modification of this scheme. Against this Act a tract was published, of which there is a copy in the British Museum, entitled 'Reasons humbly offered to the Honourable House of Commons against laying a further Duty upon Paper.' 'The

dearness of paper,' observe the writers of the 'Reasons,' 'is the only occasion that a great number of voluminous and useful books, in many sciences, now ready for the press, cannot be printed;—to the great discouragement of trade, as well as of industry and learning, very many of the profession being forced to employ themselves on trivial pamphlets.' What was true in 1698 is true in 1836: the dearness of paper is the only reason that a great many voluminous and useful books in many sciences cannot be printed. The assertion was true in 1698, with regard to the then demand for knowledge; it is true in 1836, with regard to the present demand for knowledge.

An excise duty of threepence per pound upon printing paper operates in two ways most injurious to the interests of literature. It is a heavy tax upon books that are printed, and it prevents other books from being printed. Upon the first description of injury, as applied to printed books of *all descriptions*, the statement given in to the Commissioners of Excise Inquiry by the Deputation of Paper-makers is most conclusive, and we shall abstract some of its details.

The duty upon an octavo volume of 36 sheets, of which 1,000 copies are printed, and provided the whole thousand copies are sold, amounts to a charge of one shilling per volume upon the consumer. The items are as follow:—

Necessary charge to cover Duty on a Volume, demy 8vo., 36 sheets.						
	£.	s.	d.	£.	s.	d.
Number 1,000, 72 reams perfect, weight 22lbs. duty } 5s. 6d.	19	16	0			
Paper maker's profit on ditto £5 per cent.	1	0	0			
Stationer's ditto £10 per cent.	2	0	0			
	<hr/>			22	16	0
Duty on boards and cover, 1,000 number, 1½d. per volume		5	4	2		
	<hr/>			28	0	2
Publisher's profit on duty £20 per cent.		5	12	0		
	<hr/>			33	12	2
£50 per cent. augmentation to public by allowance to wholesale } and retail booksekers	16	16	0			
	<hr/>			50	8	2
£30. 8s. 2d. equal to 1s. per volume if the whole edition be sold						

This charge of one shilling per volume would be the charge which the producer would impose upon the public if the sale of the 1,000 copies were certain,—that is, if books were as certain of demand as coals or cotton. But a publisher carries on a trade of risk; and, according to the statement of the paper deputation, ‘the bookseller must, in addition to this necessary commercial charge, augment his price farther to cover his risk of loss on so large a preliminary payment as that of the whole duty on the paper used for his edition, of which, on the average, he perhaps sells less than one-half. A demy octavo volume in boards weighs not less than two pounds; but we confidently believe that instead of the duty augmenting its price to the consumer sixpence, it actually has the effect of increasing the price not less than two shillings.’

The octavo volume upon which the duty operates as a tax to the consumer of one shilling, is ordinarily sold at twelve shillings; the tax therefore is one-twelfth of the retail price. But take a *very cheap volume*, and we should find the proportion of the tax greatly increased. The following is an extract from Mr. Knight’s evidence before the same commissioners :—

Estimated cost to the public of the Paper Duty of 3*d.* per lb. upon 50,000 copies of a volume sold in sheets for 5*s.* 4*d.*, and containing 64 sheets, such as the Penny Cyclopædia :

Duty 9 <i>s.</i> per double ream upon 3,200 reams	£1,440
Paper-maker’s profit upon duty 5 per cent.	} 216
Stationer’s „ 10 „	

Charge upon the publisher . . . £1,656 (8*d.* per copy.)

But the publisher must charge a profit upon the duty, and the various factors and retailers must also charge a profit, amounting altogether to not less than 60 per cent., even upon very cheap works, of which the retail allowance is greater than upon dearer works . . .

994

Charge upon the public . . . £2,650

This is 1*s.* 0½*d.* per volume, or one-fifth of the whole amount paid by the public for the book.

It is scarcely necessary for us to enforce the position that the paper duty is a heavy tax upon books that are printed. The evidence of the fact is here distinctly before us; and the evidence is much more striking in the case of the cheaper class of books than in that of the dearer. This, in our mind, is of the greatest importance to be regarded by all those who are willing to meet the increased and increasing desire for knowledge on the part of the great bulk of the people. It is evident that in the case of the cheap book one-fifth of the cost is tax, whilst in the case of the dear book one-twelfth only of the cost is tax. The tendency of the present commerce of literature is to cheapen the price of books—the direct effect of the excise duties upon paper is to prevent that tendency being carried as far as would be commercially practicable without the tax.

From the beginning of the present century till within the last ten years, the number of new books published was annually increasing. The prices, however, of new books had greatly increased when compared with the prices of the preceding century. The cause of this was very evident. Small impressions were printed for a limited market, in which price was no great consideration. The demand of the new and more extensive class of purchasers had either not begun to be felt, or the supply was not ready to meet the demand. In 1827 *Constable's Miscellany* gave the first example of cheap books that the purchasers of dear books might not be ashamed to read. The *Society for the Diffusion of Useful Knowledge* soon after came into operation; and their *Libraries of Useful Knowledge* and of *Entertaining Knowledge* were followed by Mr. Murray's *Family Library*, by Dr. Lardner's *Cabinet Cyclopædia*, and by other series of equal excellence. The dynasty of the quartos was at an end. Then came *Chambers' Edinburgh*

Journal and the *Penny Magazine*, and subsequently the *Penny Cyclopædia*. Henceforward the cheap market of literature was fairly open to the people. From the commencement of this era the number of all books published has been increasing, and the price of all books published has been falling. In 1829, 1,413 new volumes were published at an average price of 12s. 5d. per vol.; in 1831, 1,619 volumes at an average price of 11s. 7d.; in 1833, 1,567 volumes at an average price of 10s. 7d.; in 1835, 1,729 volumes at an average price of 9s. 5d. In 1831, there were 177 monthly periodical works; in 1835, there were 245.

The steady decrease of the price of books in general, and the well-known issue of some of the most useful works in our language at prices that render them accessible to all descriptions of purchasers, furnish a distinct evidence that the market for books is greatly enlarging. It is not that books are now produced at a less cost than they were ten years ago, but that the number of each book printed being larger, the cost of each copy is rendered less, by a wider division of the first expenses. We will illustrate this by the case of the *Penny Cyclopædia*, upon which, as is now well understood, men eminent in every department of knowledge are engaged as contributors. The literary cost of producing a single volume of that work may be estimated at the cost of £1,500. The cost of setting up the types and other permanent charges, which are independent of the number printed, may be reckoned at £500 more. Here then is a charge of £2,000 to be apportioned amongst a large number of purchasers, or a small number of purchasers. If it had been determined to look for remuneration to the few, 5,000 copies of the work would have been printed, and the charge to the public for each

volume would have been *a guinea*. It has been determined to look for remuneration to the *many* a sale of 50,000 copies having been calculated upon, and the charge to the public for each volume is *six shillings*. The cost of paper and press-work are, in either case, concurrent with the number printed. But if 5,000 copies had been printed, the permanent charges of £2,000 would have amounted to *eight shillings* per copy. In the case of 50,000 copies being printed, the same charges do not amount to *one shilling* per copy. The relative cheapness of books—their quality being equal—wholly depends upon the number printed and sold of each book. We have endeavoured to show the application of this principle to newspapers. If the stamp duty upon newspapers requires to be abolished or greatly reduced, that this principle may be carried out to the extent of the demand for *newspapers*, in the same way the excise duty upon paper requires to be abolished or greatly reduced, that the principle may be carried out to the extent of the demand for *books*.

The amount of the fixed charges whether upon newspapers or books is the principal circumstance that prevents many newspapers and books from being undertaken :

‘Enterprises of great pith and moment,
With *this* regard their currents turn awry,
And lose the name of action.’

The fixed charges cannot be diminished if the excellence of the work contemplated is to be preserved. Now, the extinction or large diminution of the paper duty is precisely the condition in all works that are calculated for an extensive sale at low prices, instead of a limited sale at high prices, which the publisher requires for his assistance in any such undertaking as the *Penny Cyclopædia* ; for such an undertaking has more than the ordinary risk of publishing

speculations, great as that risk ordinarily is. The publisher of that work put this case before the Commissioners of Excise Inquiry in the following calculation :

‘ The charge of 1s. 0 $\frac{3}{4}$ d. per copy to the public, through the duty, and of 8d. per copy upon the outlay of the publisher, is concurrent with the number of copies printed.

‘ The fixed charges which a publisher incurs, such as authorship, embellishments, composition of types, are the same whether he sells 1,000 copies or 50,000. These constitute the chief risk of a literary speculation.

‘ If these fixed charges amount to 1s. per volume upon a sale of 50,000, they would amount to 1s. 8d. per volume upon a sale of 30,000.

‘ Put the items of authorship and other fixed charges in connection with the paper duty :

		s.	d.	
For 50,000, fixed charges	. .	1	0	
„ paper duty.	. .	0	8	
		—		1s. 8d.
For 30,000, fixed charges	. .	1	8	
„ paper duty.	. .	0	8	
		—		2s. 4d.

‘ But remove the paper duty, and the speculation which now pays at 50,000, would then pay at 30,000 ; or reduce the duty one-half, and the speculation which now pays at 50,000 would then pay at 40,000.’

The paper duty operates as a dead weight upon a speculation for the cheap market of literature, equivalent to the profits or indemnity derived from a sale of 20,000 copies out of 50,000. *Without* the paper duty the publisher of such a work would be in the same position with *three* purchasers out of every 500 of the population, as *with* the paper duty, he now is with *five* purchasers out of every 500. If the paper duty were *diminished one-half*, he would be in

the same position with *four* purchasers. This risk would be diminished two-fifths in the one case, and one-fifth in the other.

But let us look at these circumstances from another point of view. The people, ardently desirous for information, desirous also that their information should be of the best kind, acknowledging no satisfactory distinction between the information that is to be furnished to the rich and to the poor—the people, for whose education the Government has done little or nothing directly, have a right to demand that the commercial channels through which they must receive education should not be burthened with taxes which render it a doubtful enterprise to make knowledge accessible to them. It is this consideration which, as we think, is far more important than the effect of the paper duty upon the actual price of books that are printed. Societies may give encouragement to the publication of books by standing before the public avowedly responsible for their excellence; but the commercial risk of publishing books must, as far as we can see, always rest upon individual responsibility. The paper duty stands upon the very threshold of every large undertaking, warning the speculator to desist from his attempt, or tempting him to escape from its burthen by primary curtailments of expense, that end, as all such curtailments must end, in adding more worthless books to the worthless mass already existing. The public demand for cheap works, and at the same time for good works, cannot be satisfied while the duty upon printing paper exists. It may be partially satisfied by the reduction of one-half of the duty, which the Report of the Commissioners of Excise has recommended. This may be well as a first step. That such a step may be taken, without any permanent injury to the revenue, we have no doubt; but, like the question of the

newspaper stamp, it is one more of a moral than of a financial character. Literature in this country, and especially the literature of the people, requires no fostering aid from the Government at this day. It has grown and it has thriven without such aid ; but it does require, when large experiments are being tried as to the power of the great masses of the people to reward literary exertions,—when, in point of fact, a market has to be formed and created by a supply,—it does require that the impediments which the Government opposes to the complete possession of that market should be wholly or partially removed. The paper duty, as it at present exists, is incompatible with the wide diffusion of knowledge amongst the people.

With a complete abolition of the duty upon paper, the production of books in this country would speedily become amongst our most important departments of manufacture. The duty upon paper is essentially a duty upon the raw material of this manufacture ; and such duties have always been lightened as much as possible under a judicious system of finance. The difficulties of obtaining the drawback upon paper—upon books exported in small numbers—restricts, no doubt, the circulation of books in our colonial possessions. But it is to the *home market* that we chiefly look for that large demand which will some day or other belong to the commerce in books. During the last century the demand for books (including every species of literary production) has increased at least twenty fold. But this increase, up to the present time, has been little more than commensurate with the increase of readers amongst the rich and amongst the more informed of the middle classes. The great body of the people have yet, for the most part, to be invited into the market of literature. In all the rural districts good books and cheap books are comparatively yet unknown.

These districts are penetrated only by the hawkers of books, who have for many years been accustomed to sell in *numbers* the worst books and the dearest books which the country produces. The books which they sell must unavoidably be dearer to the purchaser than books sold in towns, for a large portion of their cost must be made up of the price of carrying them from place to place amongst a scattered population. The points of contact between the towns and the inhabitants of the country are rapidly increasing ; but such agents as we have described will be for a long time necessary for the sale of books in rural districts. If the paper duty were removed, the price of carrying books from place to place might be borne, without injury to the quality or increase of the price of the books so carried. With the abolition of the paper duty, also, editions for the people of our standard authors might be multiplied at a very low rate as compared with their present price. Bibles are amongst our cheap books, although there is a real monopoly in their production. The reason is obvious—they pay no paper duty. The amount of duty allowed to the privileged printers of bibles, prayer-books, &c., is nearly £60,000 per year.

The time, we think, has arrived when it will be no longer possible to resist the demand of the people for cheaper *newspapers*. The demand for cheaper *books* has not been so loudly urged, nor has it been so strongly enforced by violations of the law which cannot be put down. But the justice of each demand is precisely the same. Each demand rests upon the principle that financial regulations which oppose the education of the people, and their consequent advance in prosperity, as well as their consequent capacity for being orderly and quietly disposed in all their public relations, cannot be maintained by a Government which is essentially representative. If the evils of the Stamp upon

newspapers, and the evils of the excise duty upon paper, cannot be removed without an entire abolition of those taxes, the taxes ought to be abolished. In the case of newspapers, however, we have endeavoured to shew that a small tax giving a free postage is necessary for their efficiency. In the case of the paper duty no such plea can be urged. It may be difficult, nevertheless, to procure an immediate abolition of that duty; and we must probably therefore be satisfied, for a time at least, with a considerable reduction. The moral advantages of such a reduction will, we are satisfied, become so apparent, that a government desirous of promoting education will not hesitate, in a very few years, wholly to remove such an obstacle to the advancement of the country. Whatever tends to keep a people ignorant tends to repress those energies which are the real foundation of national prosperity. Our present manufacturing and commercial superiority, and our general elevation in a well regulated liberty, are the results, in a great degree, of the intelligence and the virtue which at present exist amongst the mass of the people. Whatever increases that intelligence will still keep us in advance of other countries, and allow us still to say with one of our greatest masters of political wisdom, “ Let England never forget her prerogative of teaching other nations how to live.”

March 12, 1836.

APPENDIX.

We have purposely avoided any notice of the evils of the present system of paper duties, except as they bear upon the diffusion of knowledge. These evils are, however, too many and too extensive in their effects, to allow the present system much longer to exist. To place the whole subject as comprehensively as possible before the reader, we subjoin a "Digest of the Report of the Commissioners," as presented to Parliament.

'PAPER.

'This Report opens with a recital of the Acts of Parliament under which the paper duties are collected, commencing with that by which such duties were first imposed, viz., the 10th of Anne, c. 19, dated in 1711, which recites, as a reason for the grant, the necessity of raising large "supplies of money to carry on the present war, until your Majesty shall be enabled to establish a good and lasting peace."

'The duties on paper were first levied in Ireland by the 38th Geo. III. c. 5, and were charged by a rate on the machinery employed in the manufacture. They were assimilated to the duties in Great Britain by the 5th Geo. IV. c. 55.

'The rates and amounts of the paper duties since 1770 are stated in a return in the Appendix, which was of too voluminous a nature to insert in the body of the Report.

'The gross receipt in 1834 was £833,822. 12s. 4d., the net receipt £771,162. 13s., from which latter sum the charges of the collection are to be deducted.

'A drawback of the whole duty is allowed on all paper made in the United Kingdom on exportation; and by the 43d Geo. III. c. 69, and 5th Geo. IV. c. 55, allowances of duty were granted to clothiers, hot-pressers, and to the universities, which amounted, with the drawback in 1834, to £62,659. 19s. 4d.

'A licence duty of £4 is charged on all manufacturers of paper.

'A list of the witnesses examined is given in pages 4 and 5 of the Report, and in the following pages (6 to 10) will be found a full detailed statement of the regulations of the Excise under which the several duties upon paper are collected.

'The Commissioners advert to the important advantage which is enjoyed by the paper makers under these regulations, viz., that unlike other growing-duty traders, they have "the process of their manufacture exempt from excise interference," to which exemption the Commissioners attribute "the very great progress which has been made in the application of various improvements to this manufacture, especially those arising from the extensive introduction of machinery, which have enabled the manufacturers, by combining the two processes of making and drying the paper through the operation of large cylinders heated by steam, to complete in a few minutes a quantity of paper which formerly occupied a period of as many weeks."

'*Injurious Effects of the Separation of Paper into Two Classes.*—The separation of paper into two classes by the 43d Geo. III. c. 69, with two rates

of duty, appears from the concurrent testimony of almost all the witnesses examined upon the point, to be attended with the most injurious effects. The separation was effected by the 43d Geo. III., c. 69, by which it was enacted that all paper and pasteboard should be considered first class, and subject to 3*d.* per lb. duty, unless made *wholly* out of old tarred rope and cordage, *without extracting therefrom the pitch, or tar, or any part thereof*, and without any mixture of other materials therewith.

‘ It appears from the evidence of Mr. Dickinson, the chairman of the deputation of London paper-makers, and himself an eminent and extensive manufacturer, as well as from that of Mr. Gater and Mr. Gaussen, also considerable manufacturers, and which is confirmed by the deputation of paper-makers at Glasgow:—

‘ 1st. That old tarred rope, which during the war and before chain-cables came into use, was worth £4 to £5, or less, is now worth £11 to £12 per ton.

‘ 2ndly. That while old tarred rope has so much increased in price, some sorts of first-class materials have so much declined in value as to be worth only £3. 10*s.* to £4 per ton.

‘ 3rdly. That it has been found practicable, without extracting the pitch or tar of the old rope, completely to neutralize the smell of it ; the result of all which is that that which, at the time the law was settled, formed a good practical distinction between first and second class papers, has long ceased to be so ; and that a very extensive evasion of the law, by the use of the first-class materials in second-class paper, is the consequence.

‘ The department of Excise acknowledges that frequent complaints and disputes arise upon the subject ; that it is difficult to distinguish between the two ; and that one rate of duty would be infinitely preferable to two.

‘ It is almost superfluous to add, that the continuance of the present classification is condemned by the Commissioners of Inquiry, as calculated to produce consequences highly injurious both to the manufacturer and to the revenue.

‘ *Injurious Effects of the High Duty on the First-Class Paper.*—The injurious effects produced by the present high rate of duty on first-class paper is the next point adverted to, in reference to which, in consequence of the decline which has taken place in the price of paper, the rate of duty is described as amounting now to double what it was, and as forming a great check on the consumption of paper, as well as a great inducement to avoid paying the duty ; the rate of profit therefore to the manufacturer has been reduced so low, by the competition with the smuggler, that a very large proportion of the capital vested in mills and machinery is represented as affording no return. On the inferior descriptions of wrapping-paper the rate of duty is stated to be not less than 200 per cent., and on the finer sorts, such as printing paper, it is 50 per cent.

‘ The frauds on paper in Ireland are stated by Mr. Saurin, the Solicitor for Ireland, and by Mr. Plunkett, the Inspector of the Revenue Police, and Mr. Ryan, the Collector for Londonderry, to exist to an enormous amount.

‘ The prejudicial effect of the high duty in reference to paper used in the printing of books is forcibly demonstrated by the Commissioners of Inquiry,

and is illustrated by references to Mr. M'Culloch's "Commercial Dictionary," and to the evidences of Messrs. Knight and Parker, the publishers of the "Penny" and "Saturday Magazines."

"The demand for books is stated to be so extremely uncertain, that in a case where a publisher calculates, from the best information, the probable sale of 1,000 copies of a work, he perhaps does not sell 500 copies, or even so many as 250 copies. The duty, however, has been paid on the whole 1,000 copies, and therefore adds materially to the loss resulting from the speculation.

"The duty on the paper employed in a work such as the "Penny Cyclopædia" is estimated by Mr. Knight at one-fifth of the whole; and he states that such a speculation, which now pays at 50,000 copies, would, if the duty were reduced one-half, pay at 40,000 copies, and, if entirely repealed, at 30,000 copies.

"Mr. Knight further expresses his opinion, that a considerable reduction of the paper duty would call numerous such works into existence.

"The operation of the duty on the ordinary volume is estimated by the London deputation at from 1*s.* to 2*s.* 8*d.* a volume, according to the sale.

"The proportion of paper used in printing is estimated as exceeding two-thirds of the whole.

"The Commissioners of Inquiry justly observe, therefore, "that a large reduction of duty will be materially felt, precisely in that branch of the manufacture to which it is desirable that relief should be afforded."

"The effect of the repeal of the duty on almanacks, which amounted to 1*s.* 3*d.* on each almanack, is very remarkable. No less than 200 new ones are described as having immediately started, of some of which upwards of 250,000 copies were sold within a short period, although the old ones maintain their ground; and Moore's Almanack is stated this year to have actually doubled its former sales.

"The result of the evidence received, and the observations of the Commissioners of Inquiry in the several parts of the United Kingdom, is stated by them to be, "that the duties at their present rate and mode of charge have a most injurious tendency, both in creating temptations to evade the law, and also in checking the consumption of an article which would otherwise be in demand for all classes of the people."

"As a remedy for these evils," the Commissioners recommend "that the present division of paper into two classes should cease, and that so long as that manufacture shall continue subject to an Excise duty, such duty shall be levied at an uniform rate; and that the present rate of first-class papers should be reduced one-half, and accordingly that 1½*d.* per lb. should be fixed as the whole amount to be levied on paper of all descriptions;" and further, that the present separate classes of pasteboard should in like manner be consolidated and reduced, and subject to one duty of 14*s.* per cwt., that rate of duty to be also payable on millboards and other boards, which now pay a duty of £1. 1*s.* per cwt.

"The manufacturers calculate that a very small loss of revenue will result from these measures. The net produce of the duty on first and second-class papers in 1834 was £718,043, from which, if the duty on second-class paper

be deducted, viz., £101,023, there will remain £617,020. Mr. Gaussen calculates that not more than £150,000 of the above sum would be lost in the first year, and that every year afterwards that loss would become less. The London deputation estimate the "amount which would be received by the Excise, after the consolidation of the duties on first and second-class paper, at £680,000," leaving a loss of revenue of only £62,980.

'The Commissioners of Inquiry advert to a complaint which appears to have been made by the deputations of paper-makers both in Edinburgh and Glasgow, of the loss and inconvenience arising from missing opportunities of conveyance, to which they are frequently subjected by the regulation which requires them to retain their paper on the premises for twenty-four hours after the departure of the officer who had weighed it and charged it with duty. The English manufacturers, as well as the officers of Excise, are opposed to the alteration of this regulation, on the ground "that a shortening of the period would open a door to evasion of duty."

'The Commissioners of Inquiry consider it inexpedient to dispense with this regulation during the continuance of the present rate of duty; but in deference to the "strong feeling which the whole of the Scotch manufacturers have expressed upon the subject," they suggest that "some relaxation as to time may be allowed as soon as the duties are reduced and consolidated into one."

'*Penalties.*—The Commissioners of Inquiry recommend a revision and reduction of the whole of the penalties established by the laws relating to paper, upon the grounds that "the original penalties in the Act of Anne, establishing the duty, in no case exceeded £50, and were generally very much below it;" and that "enormous penalties do not and will not check smuggling, so long as the temptation afforded by high duties exists." The Commissioners specially allude to one penalty of £200, which is inflicted by the 1st Geo. IV. c. 58, sec. 6, for every label delivered to the manufacturer by the Excise for which he cannot account. The utmost loss of revenue consequent upon the loss or misuse of the label, being the amount payable upon one ream of paper, which, in the case of writing and printing paper, would be from 5s. to 6s. 3d., and on a ream of millboard 25s. The Commissioners suggest that a penalty of 40s., or at most £5, would be quite sufficient to prevent fraud on this point.

'*Mode of Charge in Ireland.*—The manufacturers in Ireland, it is stated, are anxious to return to the original mode of levying the duty in that country, viz., "by a licence duty imposed upon the engine according to the contents of the vats." The introduction of the English mode of charge into Ireland was effected in consequence of the recommendation of the Parliamentary Commission of Revenue Inquiry contained in their Eighth Report; and the Commissioners state that "all the evidence they have obtained leads them to concur in that Report; and that they, therefore, do not feel disposed to recommend a return to the former mode of levying the duty in Ireland."

'A few other changes are mentioned as having been suggested by the Scotch manufacturers, as well as by the London deputation, such as "the abolition of the present regulations which compel the keeping an account

of the daily produce of the manufacture, and of the restrictions in regard to the number of sheets to be contained in a ream, as well as the obligation to send out no smaller quantity from the mill than a ream." The latter restrictions were probably necessary when the duty was collected on the number of sheets and not on the weight of the paper, but are not only inapplicable now that the duty is charged by the weight, but afford, the Commissioners observe, "just cause of complaint to the manufacturer, as well as an argument in favour of the earliest possible revision and consolidation of all the twelve or thirteen Acts relative to paper."

'The Commissioners strongly urge a general consolidation of all the Excise laws.

'*Want of Communication between the Board of Excise and the Traders.*—The Commissioners of Inquiry observe upon a point which they state to have been repeatedly brought under their notice by the manufacturers of all descriptions, but which has been especially insisted on by the manufacturers of paper; viz., "that the Board of Excise do not allow any direct communication between themselves and the traders," and that the only means the trade has of being made aware that an application has ever even reached the Board, or what is the result of it, whether favourable or unfavourable, is by a verbal communication through the supervisor. The Commissioners of Inquiry comment upon this mode of proceeding, as being in every respect highly objectionable, and suggest that it should be forthwith amended by the establishment of the same facility and freedom of communication in the Excise, as exists in the departments of the Customs, Stamps, and Taxes.

'*Credit.*—With regard to the extent of credit which is now allowed to the manufacturer after the duty becomes due, the opinions received by the Commissioners appear to have differed. In practice the duties are now collected only for twelve weeks. The Commissioners express their opinion that "giving a long credit on an article which can be instantly brought to market after the duty is charged, is an objectionable practice, because the trader receives the amount of duty for a considerable time before he pays it," and they therefore recommend (sufficient notice of the intended alteration being given) that "in case of a reduction of duty, it should in future be collected in the round which follows the charge."

'*Export Regulations.*—The Commissioners of Inquiry suggest relief, in the case of export, from the expense of the bond and some other expenses.

'*Allowances.*—The Commissioners further express their opinion, that when the duty is reduced to $1\frac{1}{2}d.$ per lb., the allowances repaid to clothiers and hot-pressers, which amounted in 1834 to £6,274, may be safely discontinued.

'*Expenses of Collection.*—The Returns of the Excise state that no greater reduction of expense than £6,250 could be obtained by the repeal of the duties on paper.

'The Commissioners recommend the abolition of the survey on makers of tea-trays and *papier maché*, which is attended with no advantage to the revenue; and they advert to the amount of duty paid on paper used at the public offices and for printing, which is estimated by Mr. Dickinson at £29,000, one half of which, or about £15,000, will be immediately saved by a reduction of one-half the duty on first-class paper.

‘ Stained Paper.—The Commissioners of Inquiry conclude their observations on the paper duty by stating, that they deem the repeal of the duty on *stained paper* to be absolutely necessary to the full developement of the benefit that will arise from the reduction of that on paper itself.

‘ The stained paper duty was imposed by the original Paper-duties Act (10 Anne, c. 18), and is distinguished by its being a second charge upon an article already highly taxed in its plain or simple state. “ Printed goods and stained paper ” appear to have been officially classed together by the Board of Excise ; and the Commissioners observe, that it is remarkable the latter duty was not repealed at the same time with the former, to which it was much more analogous than to the paper duty.

‘ The present duty on stained paper is $1\frac{3}{4}d.$ per square yard, averaging about 1s. per lb. in addition to the $3d.$ per lb. levied on the paper in its plain state. A drawback of the whole duty of $1\frac{3}{4}d.$ is allowed on exportation.

‘ The amounts of stained paper charged with duty, and of revenue received therefrom, in the year ended 5th January, 1835, are as follows :—

	Yards.	Revenue.
England	8,071,094	£58,851 14 6
Scotland	59,782	435 18 2
Ireland	618,268	4,508 4 1

8,749,144 £63,795 16 9

‘ There are 108 paper-stainers in England, two in Scotland, and 46 in Ireland, each of whom is charged with a licence duty of £4.

‘ A list of the witnesses examined is given at page 29 of the Report ; and in the two following pages are contained the Excise regulations under which the duties are charged and collected.

‘ From these regulations it appears, that the stained paper duty is charged on all paper prepared for use before it is stained ; and that if a sheet therefore becomes spoiled or unsaleable in the staining, the paper-stainer must bear the loss.

‘ The price of stained paper is stated to be $2s. 6d.$ per piece ; the two duties amount to 1s. $3d.$, so that we have at once 100 per cent. of duty, in addition to incidental expenses and to the losses of the nature above described.

‘ The operation of this disproportionately high duty is very severely felt, particularly in the inferior papers, with regard to which Sir James Williams states, that “ for 100 pieces of high-priced paper they sell 1,000 of the low-priced.” In such a state of things it is almost needless to add that evasion of duty takes place to a great extent, more especially in Ireland, where out of 46 paper-stainers 14 appear, from the Excise return for 1832, to have paid duty under £10, 43 under £100, and three only paid duty above that amount. It is asserted that Irish stained paper is imported into England, and sells for one-third less than English paper, so that the evasion of duty in Ireland is not only injurious to the revenue, but prejudicial to the interests of the manufacturers of the United Kingdom.

‘ The expense of collecting this head of duty is estimated by the Excise at £18,000, the produce of the duty being £63,000. The Commissioners of

Inquiry, however, do not concur in the correctness of this estimate, but; on the contrary, express their opinion that a "much greater expense is incurred." Copious extracts from the evidence are given in proof of the laborious nature of the duties imposed upon the officers, and which also show the highly rigorous and vexatious regulations and restrictions to which the manufacturer is subject in consequence of the duty, and of the extent to which he is checked in all attempts at improvement by those regulations.

'Mr. Gaussen states, that "the paper makers themselves could, if this duty were abolished, print a cheap ornamental paper for the poor simultaneously with the original manufacture; that they can produce at least thirty durable colours, and can render paper like watered silks and grained leather, as well as emboss it; and that the duty and labour for staining can thus be saved."

'The Commissioners of Inquiry state, "that after full inquiry, both amongst those concerned in the trade, and also amongst the various authorities of the Excise, they find themselves unable to suggest any measures for the prevention of the great extent of evasion which is at present practised, or for the protection of the fair trader, other than a total repeal of the duty on stained paper as speedily as the state of the revenue will permit, and, if possible, simultaneously with the reductions and consolidation of the paper duty already proposed, it appearing to the Commissioners that the advantages anticipated from this latter measure will be in the highest degree increased by the concurrent repeal of the duty on stained paper."

'The London deputation "consider that the abolition of the duty on stained paper would be followed by an immense increased consumption of paper, so as in a great degree, if not entirely, to diminish the apparent loss to the revenue which would arise from the repeal."

'The Commissioners close their Report with the following recapitulation of their recommendations:—

- '1st. That the two existing classes of paper should be consolidated into one.
- '2d. That the rate of duty should be fixed at $1\frac{1}{2}$ d. per lb. on all paper.
- '3d. That all classes of pasteboards and millboards be in like manner consolidated, and that the duty to be levied on them be fixed at 14s. per cwt.
- '4th. That the reduced duties be collected in the round following the charge.
- '5th. That on the reduction of the duty, the allowances to hot-pressers and clothiers be discontinued.
- '6th. That the penalties now existing be revised with a view to their reduction.
- '7th. That the Acts of Parliament relating to paper be revised and consolidated, and that the manufacturers be furnished by the Board of Excise with a digest of the regulations affecting their trade.
- '8th. That the survey on makers of tea-trays, bottle-stands, and other articles of that description, be discontinued; and,
- '9th. That the duty on stained paper be repealed, and the survey abolished.'

ON

NATIONAL PROPERTY,

AND ON

The Prospects

OF THE

PRESENT ADMINISTRATION

AND OF

THEIR SUCCESSORS.

LONDON :

B. FELLOWES, LUDGATE-STREET.

M DCCCXXXV. •

LONDON

R. CLAY, PRINTER, BREAD STREET-HILL

ON

NATIONAL PROPERTY,

&c. &c.

THE subjects of our title-page may appear, at first sight, to be totally distinct. It will be found, however, that they are intimately connected. The nation has now arrived at one of those periods which recur in the history of every free and progressive community, at which traditionary routine ceases to be a guide ;—when the file affords no precedent, and we must either submit to act from mere impulse and guess, or must recur to the first principles on which the theory of government is founded.

The great object and the great difficulty in government is the preservation of individual property. All the fraud and almost all the violence

which it is the business of government to prevent and repress, arise from the attempts of mankind to deprive one another of the fruits of their respective industry and frugality. Among savages these attempts produce robbery and theft. To these simple modes of unjust appropriation civilized nations add the less palpable forms of monopoly, combination, and privilege; abuses which, when of long standing, it is not easy to detect and expose, and which it is still more difficult to remedy, without occasioning much immediate injury to individuals. But the most revolting, and perhaps the most mischievous form of robbery, is that in which the government itself becomes an accomplice; when the property of whole classes of individuals is swept away by legislative enactments, and men owe their ruin to that very institution which was created to ensure their safety. It is highly honourable to the honesty and sagacity of the people of England that they have guarded against this evil with almost superstitious care, and have allowed every individual to oppose his own interests to those of the public to the utmost extent to which, with any resemblance to

decency, they can be urged. It may be a question, indeed, whether they have not often gone beyond this point, and allowed pleas of well-founded expectations, or, as they are usually termed, vested interests, to impede the general good to an unnecessary, and, therefore, a mischievous degree. But with all our anxiety, and it is a very proper anxiety, to hold the balance even between individuals and the public, or to lean rather towards the weaker party, there are two landmarks which we have never transgressed :—the individual interests which, whether in possession or in expectation, we have considered as property, even when inconsistent with the public welfare, and therefore either left untouched or bought up at an ample price, have been in the first place lawful, and, secondly, capable of valuation.

No interest, however * definite and vested, can be respected if it be unlawful. No voice has ever been lifted up in defence of the vested interests of paupers in poor-law abuses, or of vestrymen and overseers in parochial jobbing. So far, indeed, has this been carried that a profit, based on an •illegal act,

is not held entitled to mere ordinary protection against an equally unlawful aggression. The printer who pirated Lord Byron's "Cain," was allowed to plead his own wrong in his own defence; to maintain, and to maintain successfully, that "Cain" being an unlawful publication, was not property, and therefore could not be the subject of plunder.

Nor can any interest, however lawful, be considered property as against the public, unless it be capable of valuation. And for this reason:—If incapable of valuation it must be incapable of compensation, and therefore, if inviolable, would be an insurmountable barrier to any improvement inconsistent with its existence. If a house is to be pulled down and its site employed for public purposes, the owner receives a full compensation for every advantage connected with it which can be estimated. But he obtains no *pretium affectionis*. He is not paid a larger indemnity because it was the seat of his ancestors, or endeared to him by any peculiar associations. His claim on any such grounds for compensation is rejected, because, as the subject matter is incapable of

valuation, to allow it would open a door to an indefinite amount of fraud and extortion : nor is he allowed to refuse the bargain offered to him by the public, because such a refusal would be inconsistent with the general interest of the community. The mere hope of public employment, founded on no contract, express or implied, affords another instance of a lawful expectation, too vague to admit of compensation. If such a claim had been allowed, no incumbrance on the public revenue could ever have been removed, or even diminished. The army could not have been reduced, because many who hoped for commissions must have been disappointed. All improvement must have been stopped if it had been admitted that such expectations are property.

All property, so far as it has no lawful individual proprietor, must belong to the nation collectively, or, in other words, to the State. This is the case with respect to the fee-simple of all that property which is held in mortmain. The estates of Bishops and Chapters, of the Universities, and their colleges, and halls, and

generally speaking, of all Corporations, have no owners beyond the life interests of the existing bishops and members of chapters and corporations. Those life-interests the State is bound to protect; to affect them without the consent of their owners, would be, as we have already stated, spoliation in one of its most odious forms. But subject to those life-interests, the State is not only justified, but absolutely bound, to employ the property in the way most conducive to the public interest. In many, indeed in the vast majority of cases, the existing application, or at least an application the same in kind, is on the whole the best that can be adopted. Few measures could be more mischievous than a diversion of the revenues of the Universities from the purposes of education. Some modifications, indeed, of the statutes of the different colleges are necessary to enable them to perform still better their important offices; but no one who is aware of the extent of their present usefulness would think for an instant of making a total change in their destination. The same may be said of the episcopal and chapter property in

England, and of the benefices, the advowsons of which do not belong to individuals, and which are therefore public property. A better distribution might perhaps be made of their revenues, but there is no mode in which they could be more beneficially employed, than as an ecclesiastical endowment. With many persons long habit has blunted the sense of the advantages which are produced by an endowed church : and there are others who, though aware of the extent of those advantages, or rather, perhaps, in consequence of their knowledge of the benefits conferred by an endowment, are so anxious to increase those benefits, and to make the endowments of the church as useful as possible, that their attention is more earnestly fixed on the faults and deficiencies of our existing system, than on its far more important merits. But all whose minds are not blinded by party or sectarian spirit must admit that an endowed church is among the most valuable parts of our political inheritance.

But while, on the one hand, we deny the expediency of diverting the estates of the Universities from educational, and those of the sees and chap-

ters and benefices in question from ecclesiastical purposes; while we affirm that such a diversion would be short-sighted and barbarous folly; on the other hand we equally deny that, supposing the existing life-interests to be untouched, and that the diversion could be proved to be expedient, it would be an *injustice*. In other words, if the expediency can be proved, we affirm the right.

And not only must the expediency, on which alone the right is founded, be clearly proved, but it must be an expediency with reference to the nation as a permanent body. A violation of this last rule appears to be the only mode in which a nation can commit an injustice, although no assignable individual has a right to consider himself as unjustly treated. A nation, though it may act with the utmost imprudence or folly, cannot be said to be unjust to the whole of its existing members, any more than a man, however absurd, can be said to be unjust to himself. But if the existing members of the nation sacrifice the welfare of their successors to their own immediate interest, they

may be said to be unjust to their successors ; just as a man who wastes his inheritance, or sells it, and lays out the price in an annuity on his own life, is said to be unjust to his children. And this is a species of injustice to which every country is most mischievously tempted. It is as dangerous for a nation as it is for an individual, to have the power of promoting its own apparent immediate interests at the expense of those who are not yet in existence, with whom therefore it cannot sympathise, and who have no assigned protectors. Few countries, therefore, have been able to withstand the temptation. Almost every government has, to a certain extent, sacrificed posterity wherever an immediate gain has appeared attainable. One of the most striking instances was the funding system adopted in this country' during the revolutionary war. We do not mean to affirm that it was inconsistent with the permanent welfare of the state, and therefore, in our sense of the word, unjust, to raise by loans a portion of the expense of that war. But the mode in which the greater part of those

loans was raised produced a slight immediate advantage, at the expense of a great and permanent evil. They were principally raised by the creation of a three per cent. stock, at a time when the real interest of money was from five to seven per cent. For every 70*l.* or 60*l.*, or sometimes even for a smaller sum really paid to the Exchequer, the nation acknowledged a debt of 100*l.* A slight abatement of interest was thus obtained. If the nation had acknowledged itself a debtor for only the sum really borrowed, it would have had to pay, during the war, a rather larger interest. In some cases, five per cent. instead of four and a half. In others, perhaps six per cent. instead of five and a half, or perhaps even more. But, at the termination of the war, the national debt, instead of amounting to between seven and eight hundred millions, the greater part of it bearing an interest of only three per cent., but redeemable only by the payment of the nominal principal sum, would not have exceeded four or five hundred millions, bearing, indeed, a higher rate of interest, some part of it six, or perhaps even seven per cent.,

but redeemable at the expense of four or five hundred millions. The interest of the whole might have been reduced, and a portion of the principal paid off, without any injustice to the public creditor, who would have received every shilling that he bargained for, and at this instant we should probably be subject to not more than one half of the debt which interferes with our internal prosperity and external force, and endangers, more than any other single cause, the stability of our institutions.

Now, even supposing that it could be shown that it would be expedient, as far as the present generation is concerned, to dispose of the fee simple in reversion of all the national property, and apply the produce for purposes of temporary utility, it is certain that such a conduct would not be expedient as respects our posterity. The revenue derived from property held in mortmain is a revenue, and it is the only revenue so circumstanced. which, though it is received by the country, or by those who are trustees for the country, no individual can be said to pay. No assignable individual is the poorer because

the beautiful valley in which Dulwich College is situated belongs to a corporation. The revenue arising from that splendid property is, without doubt, employed less beneficially than it might be ; but in all probability, more beneficially, and most certainly not less so than if Allen, instead of founding a college, had founded a family. Of this revenue the existing generation is only tenant for life. It is our right and our duty to manage and apply the income, but to preserve the inheritance. The inheritance belongs to our successors. If, by Act of Parliament, the property of Dulwich College were sold, subject to the existing life interests, and the produce applied in aid of the supplies of the year, the present generation indeed would not be injured, but our posterity would be deprived of a revenue of which we at present make little public use, but which they may apply to the noblest purposes of improvement.

A general conviction of the mischief that would arise from the dissipation, for purposes of immediate utility, of the fee simple of mortmain property, and of the temptation to which a government

is exposed, particularly in unsettled times, to give present relief, and obtain, or confirm, present power, and temporary popularity, by perpetrating this mischief, has induced persons who were not aware of the real grounds on which it ought to be opposed, to support their opposition by all sorts of fallacious arguments. They confound the right which clearly does exist, to deal with the income, with the right, which does not exist, to waste the fee simple ; and by endeavouring to prove what is false, have failed in establishing what is true.

Of those who are guilty of this error, some deny the right of the State to deal with the income of property held in mortmain, on the ground that, what they call the church, as distinct from the existing clergymen, is the owner of what they call church property ; that the episcopal lands belong to the bench of bishops, not for the lives of the existing bishops, but for ever ; and that to declare that no bishop shall in future be appointed, and that the revenues of the sees as they become vacant shall be applied to the support of hospitals, would be an act of usurpation,

even although it could be demonstrated that such an application would be more useful, not only at present, but permanently, than the present one. The answer to these reasoners is, that to every spoliation there must be two parties, the spoiler and the person despoiled. Now who, under these circumstances, would be the persons despoiled? Our posterity? No: for the argument assumes that they would be benefited. The existing bishops? No: for they are untouched. The persons who now have the power to appoint bishops? Their consent must of course be obtained. If the bishopric of Sodor and Mann had still belonged to the Athol family, their right to appoint a bishop could not have been suppressed without compensation. But, in the present case, the persons who have the right to appoint bishops are the government, and their consent is presupposed. The persons who might hope to be made bishops? They have no vested interest susceptible of valuation; and, therefore, on the grounds already laid down, cannot be heard. They have no more right to protest against the suppression of bishoprics than subalterns have to oppose a reduction of

the number of field-officers. Bishoprics no more belong to the church, as an imaginary entity, distinct from the existing churchmen, than pay and allowances belong to the army, as an equally imaginary entity, distinct from the existing soldiers.

Others again contend that this property, having been originally given to ecclesiastical purposes, cannot be diverted from them without improperly violating the wills of those deceased persons who so dedicated it. In Scotland, where a right of perpetual entail is admitted, this argument might have some plausibility. In England and Ireland, where the law “abhors perpetuities,” it is almost too absurd for refutation. Our ancestors have had their full swing of posthumous power. Their wills have been obeyed for centuries ; in some cases, without doubt, most beneficially ; in others, more or less mischievously. And will any one, out of a sentimental regard to their memory, maintain that we have not now the right, or that, having that right, we are not now bound to inquire, how far this obedience is now beneficial, how far it is mischievous ? or that we have not now

the right, or that, having that right, it is not our duty to make such changes as may augment the benefit and remove the mischief?

If this argument were successful, the land would indeed belong not to the living, but to the dead. Every successive generation would find itself more and more confined by testamentary enactments ; in many instances the result of vanity, caprice, or ignorance ; in others, framed to meet the wants of an obsolete state of society, but in all cases immutable as the laws of the Medes and Persians. One testator might direct his estates to lie fallow for 10,000 years ; another that they should be cropped alternately in thistles one century, and in nettles the next ; and a third might order, as indeed has been done, that the successive life-owners should for ever be chosen by lot.

It cannot be necessary formally to prove that the right of a person, who is in possession of a piece of land, to direct what shall be done with it after his decease, does not belong to that class of rights which have been called natural, but is altogether the creation of law. In some nations, as was the case throughout

Europe at the commencement of the feudal system, no such right exists. In others, such as France, it exists, but within very narrow limits. The Scotch law denies testamentary power, unless by means of an evasion, but allows a power of perpetual entail by deed. The English law upon the subject is full of inconsistencies. It allows property to be settled on individuals, either by deed or will, for the lives of persons in being at the execution of the deed, or the death of the testator, and for 21 years afterwards, being an average period of rather less than 70 years, but no longer. It absolutely prohibits devises in mortmain, and subjects conveyances in mortmain, to restrictions intended, and very skilfully framed, for the express purpose of diminishing their frequency: and by a strange anomaly, it ordains that those mortmain appropriations, which it allows still to be made, and those devises which were made before the prohibition was enacted, and which belong therefore to a class which it has expressly stated to be mischievous, shall exist for ever, unaltered in their objects and their machinery. But all laws are of course intended

for the advantage, not of passed, but of present and future generations. The wills and conveyances of the dead, are, to a certain extent, to be respected, not because our obedience or neglect will benefit or injure those whom the grave has rendered unsusceptible of either ; but partly because a testamentary power is an inducement to industry and frugality ; and partly because it is supposed, at least in this country, that property is likely to be more beneficially distributed by a testator, than by the general rules of an Act of Parliament.

The former ground has nothing to do with the present question. Industry and frugality would not be sensibly diminished if all power to become the founder of a corporation were taken away. The latter ground becomes obviously less applicable as the period of posthumous power is extended. A testator may be the best person to decide how his former property shall be enjoyed for twenty, or forty, or even seventy years after his decease ; but we can scarcely conceive his prescience to extend beyond a century. We can scarcely conceive that we, who are now

living, are not better judges what application of the revenues of a given estate will be best suited to the wants of the present generation, than the person who happened to possess that estate 500 years ago. The only plausible ground for giving to a person, who gives or devises his estate to a corporation, power to direct the specific application of its revenues for a longer period than when he settles it on individuals, is to promote settlements in mortmain. It is said, that if we interfere with such settlements at any period, however remote from the decease of the testator, they will cease to be made. But why, then, is the Mortmain Act left unrepealed? The preamble of that act is in the following words:—

“Whereas alienations of lands, tenements, and hereditaments in mortmain are prohibited or restrained by Magna Charta, and divers other wholesome laws, as prejudicial to and against the common utility; nevertheless this public mischief has of late greatly increased.” For remedy of which it absolutely prohibits devises in mortmain, and subjects settlements in mortmain to very strict regulations, all intended, and most

of them successful, in destroying the practice. A greater absurdity cannot be imagined than to submit to inconvenience, in order to encourage dispositions in mortmain, and at the same time to prohibit, or impede them by statute.

In the cases to which we have just alluded, the existing individual interests are lawful. A bishop has precisely the same right to the revenues of his see, which a landlord has to those of his estate. But there are cases in which the existing individual interests are unlawful: in which the advantages derived by the owners for the time being, are a breach or an evasion of the law.

This is the case with respect to those corporations, the members of which, though mere trustees for the public, yet in violation of their duty, turn their offices to their private advantage. Property so abused belongs to the State, not merely in reversion, subject to the existing life interests, but in possession. The existing owners are wrong-doers, and the injustice would consist not in arresting, but in permitting, their unlawful gains.

We have stated these principles at some length, because it appears to us that an emergency has now arrived at which they must be acted on, and that in three different instances.

I. With respect to the Established Church of Ireland.

II. With respect to Municipal Corporations.

III. With respect to the Claims of the Dissenters to Admission to the Universities.

We will consider these important subjects separately.

I. With respect to the Established Church of Ireland,

When the property now possessed by the Protestant Episcopal Church of Ireland was appropriated to ecclesiastical purposes, the religion, the professors of which were thus endowed, was the religion of the whole of the population. The endowment was ample, but not perhaps excessive. Our predecessors in England and Ireland knew that religion was not one of those things which may be safely left to be

regulated by the ordinary principles of demand and supply. They knew that the religious instruction which is afforded only so far as it is paid for, is not likely to be the best of its kind ; that the priest who is to live by supplying information and advice, is likely to sell that information and that advice which are most to the taste of his customers ; to flatter their prejudices, inflame their animosities, and prescribe those conventional duties and observances, which soothe the consciences and gratify the spiritual pride of his hearers, but leave their worst passions uncontrolled. And they felt, also, that as religious instruction, though necessary to all, is most necessary, or to speak more correctly, is necessary in a greater amount, to the poorest classes of the community, they ought not to be exposed to the alternative of going without it, or paying for it the same price as is paid by their wealthier neighbours. They felt that of all modes of taxation, a poll-tax is the least equitable ; and that a clergy living by the sale of their services, must, in fact, be supported by a sort of poll-tax ; that

is, by a contribution bearing no reference to the ability of the contributors. Wisely, therefore, and justly, they gave to the religious instructors of the people an ample endowment; an endowment which enabled the teachers to speak with authority and independence, and the parishioners to demand their aid without feeling that spiritual improvement was to be obtained only at the sacrifice of wants less important, but more obvious and more urgent: and they supplied this endowment from the only sources which at that early period were disposable; partly by means of land, and partly by tithes. To the bishops and chapters, who were comparatively few, they gave large estates, which they could manage by their agents, and yet derive a considerable revenue. But such an endowment was unfit for the parochial clergy. At the early period to which we refer, farmers and rent were almost unknown. Every estate was cultivated at the expense and for the benefit of its proprietor; unless it was large enough to support the expense of a bailiff or a steward, he was forced to manage it himself. • The num-

ber of the parochial clergy was necessarily so large, that if each priest had had his estate, it must have been too small to have been managed by any body but himself, and its management would have required his whole time. Instead of estates, therefore, they endowed the clergy with a portion of the produce of the soil, to be taken by them free from the expense of cultivation. In all this they followed the plan which was adopted, and for nearly one thousand years, retained over the whole of Europe.

During the course, however, of centuries of ignorance, the Christianity of the gospel was deformed and distorted by a mass of superstitions. Among the most mischievous of these were the doctrines, that orthodox believers only are to be saved, and that it is the duty of government to force all its subjects to adopt that belief which it assumes to be the true one. And these were among the errors not detected by the early reformers. They were as intolerant as their adversaries ; and, where they had the power, propagated their own opinions by persecution, as fiercely and as concien-

trously as the church of Rome. In England this conduct was successful. The Reformation began with the crown, and the people conformed to its will. The property of the church was placed in the hands of the professors of the reformed religion; and, as only a small minority rejected these doctrines, the endowments of the church of England were still devoted to their original purposes—the religious instruction of the mass of the people.

The same course was attempted to be pursued in Ireland. The sees and the benefices were filled exclusively with Protestants; protestant forms of worship were enforced, and it was without doubt expected that the doctrines of the establishment would be adopted by the people. So preposterous an arrangement as a splendid endowment for the smallest of the three sects that divide the country, a very moderate endowment for the next in point of numbers, and none at all for the vast majority, was not contemplated by those who established the present church of Ireland; and indeed never could have been seriously contemplated by any judicious—we might say, by any sane—legislator.

The experiment, however, failed ; and probably failed in consequence of the very measures which were devised for its attainment. The protestant episcopal religion, associated in the minds of the people with defeat and taxation, instead of the progress for which it seems destined wherever it meets Catholicism on the fair field of reason, has lost ground day by day since its establishment. It was then supposed to be embraced by a third of the people : it is now probably confined to about one seventh. Even Presbyterianism, though of much more recent growth, probably exceeds it ; and Catholicism has probably a larger body, of educated believers, in Ireland, than in any other portion of Europe.

If, however, mere failure had been the only result, although that failure had been, as it was, most signal ; if the attempt to bribe, or force, or starve the Catholics into Protestants, had merely ended in strengthening the religion which it was intended to check, and discouraging that which it meant to promote ; if these had been the only results, it is probable that they would have attracted little attention in England. If Ireland had

contained a well-paid protestant church, and a contented catholic population, we might have been struck by the anomaly, but should have made no exertions to get rid of it. But it was not in human nature that this should be the case. The Catholics are suffering both an insult and an injury. The *injury* is, that of all the three denominations, Catholics, Protestant Episcopalians, and Presbyterians, the Catholics alone, though by far the most numerous, and by far the poorest, class, are forced to support, and chiefly out of the low earnings of labourers and cottiers, their own religious teachers. The *insult* is, that while their own church is left totally without a provision, the endowment originally provided for its benefit is employed to support a religion which they are taught to despise as false, and to hate as that of their conquerors. And, as is usual where there is both an insult and an injury, their attention is so fixed on the insult that they seem to have forgotten the injury. They declaim against the protestant establishment, as if its mere presence did them harm. They say little of the absence of a catholic establishment, though the great

mass of the people must every day suffer from the want of one. But, though this strange state of things afforded such matter of agitation, we heard little of it while the Catholics were deprived of political power. The instant that was acquired, and in proportion as more and more of it was acquired, their complaints became louder and more successful. Their struggle for admission to the elective franchise, took more than a century ; but the instant that was done, any political prophet might have safely predicted the concession, not only of the claims which they then made, but of all that they were entitled to make. In about thirty years from that time they became admissible to parliament, subject to exclusion from the greater number of boroughs by a franchise vested exclusively in protestant corporators. In three years' time that fence was removed, and Catholics formed, for the first time since the days of Philip and Mary, a real party in the English House of Commons. They then complained that tithes are an inconvenient mode of raising a revenue, and Lord Stanley, as Irish Secretary, promised in parliament

their extinction. Emboldened by this success they proceeded more directly to their real subject of irritation ; and Mr. Ward, who, though perhaps unconsciously, was virtually their organ for this occasion, moved his celebrated resolution : “ That the protestant episcopal establishment in Ireland exceeds the spiritual wants of the protestant population ; and that, (it being the right of the State to regulate the distribution of church property in such a manner as parliament may determine,) it is the opinion of this House that the temporal possessions of the Church of Ireland, as now established by law, ought to be reduced.”

It is well known how opposed the ministers of the time were to the bringing forward this resolution ;—some, because they were opposed to the principle so obscurely enunciated in Mr. Ward’s parenthesis, “ it being the right of the State to regulate the distribution of church property in such manner as parliament may determine ;” others, because they wished for clearer and more trustworthy information respecting the assumed excess of the protestant episcopal

establishment; and all because they knew that no measures founded on it could then be carried through the House of Lords. But, notwithstanding the opposition of the government, including as it did Lord Stanley and his friends, and the devoted resistance of Tories and High Churchmen of every denomination, it was generally believed that the resolution would be carried or defeated by so small and reluctant a majority as to render certain its subsequent success in some slightly varied form. The government, therefore, or rather those members of the then government who approved of the principle involved in Mr. Ward's parenthesis, though, in the existing state of parties, and with our imperfect information as to the facts of the case, they foresaw nothing but evil in the immediate adoption of his resolution, issued a commission to inquire into the relative numbers of the Protestants and Catholics; and by means of this commission, ensured the rejection of the resolution.

Little is yet known of the result of the labours of that commission; but the little which we

have heard leads us to suspect that, as far as the parochial establishment is concerned, it exceeds the spiritual wants of the protestant population in a less degree than is commonly supposed. We suspect that a scattered protestant population will be found in most parts of the country, and that if the protestant establishment is to be eventually suppressed only so far as it is *now* needless, the proportion of places in which it will be got rid of cannot be large. But the episcopal establishment, even reduced as it has been, is obviously excessive. The extent of a bishop's labours depends, in some measure, on the number of the population under his care. Now, each of the single dioceses of Chester and London comprises a population of which the portion that adheres to the Church of England probably equals the whole protestant episcopalian population of all Ireland. Yet we hear no complaint of the inability of the bishop of either of these sees to perform fully all the duties of his office ; indeed, the two eminent prelates now filling those sees, each of them devote much time and attention to other subjects of great importance,

but unconnected with the business of their sees.

The number of benefices rendered necessary by the irregular manner in which the protestant population is dispersed, and the arduous nature of episcopal duties in the present state of Ireland, are grounds for assigning a greater number of bishops to Ireland, than would be necessary for the superintendence of an equal number of English episcopals. But it is not probable that it is necessary to have fourteen times as many.

It must be recollected, however, that we are speaking of Bishops as they now exist in England and Ireland: men of high civil rank, exercising considerable civil power, and enjoying large revenues:—revenues, far exceeding those annexed to almost any civil offices. Of functionaries such as these, we maintain that there is now an excess in Ireland. And such seems to be the opinion of many of the present bishops, or they would not be so frequently absent from Ireland, and to have been the opinion of the Tories when in office, or they

would not have raised to the episcopal bench so many inefficient persons. We are far from affirming, or from believing, that it would not be advisable to retain the present, or even to appoint a greater number of bishops, *for ecclesiastical purposes only*. But for such purposes it is not necessary that they should possess the revenues or hold the civil station of the present bishops. Indeed, those revenues and that station raise them so much above their clergy, as to prevent that familiar intercourse which would enable them to afford constant and useful advice and superintendence. If the dioceses were diminished in extent, and therefore trebled or quadrupled in number, and the best living that is at the disposition of the government in each diocese were annexed to the bishopric, a portion only of the present episcopal endowment would provide a far more useful episcopal establishment: and two archbishops would be enough to represent in Parliament the Protestant episcopalian church of Ireland.

It appears clear, therefore, that Mr. Ward's

first proposition is true, and that the present endowment of the protestant episcopalian church of Ireland exceeds the sum necessary for the spiritual wants of its members. And those must be little aware of the feelings of the people of this country who believe that, when a palpable misapplication of the national property has been exposed, it can be allowed to remain unredressed. No ministry can stand that resolves to maintain for ever, and in their full integrity, the revenues of the Established Church in Ireland. It may be said, however, that the surplus which will accrue from the prospective reduction of the episcopal revenues may be applied to purposes of education. Undoubtedly it may, and we trust that it will, be so applied. But it must be to the education of the great body of the people, not to the education of a small minority. The great, the apparently insuperable difficulty of providing a religious and moral education—and no other system of instruction can be called education—in which both Catholics and Protestants can participate, has been solved by the appoint-

ment of the present Education Board—a blessing for which Ireland is indebted to a Whig ministry, and which, from the admirable manner in which it has already worked, even in its infancy, and counteracted by every form of factious and fanatical opposition, appears likely to be the greatest instrument of improvement that she has as yet received from the imperial government. But this, or any other application of the surplus revenue in question, to purposes not exclusively protestant, is obviously a fundamental change in its present destination. It can be defended only on the principle which we have stated at so much length, that subject to the existing vested and lawful interests, mortmain property is national property, and that it is the right, and even the duty of the legislature, to provide that it shall be used in the mode most conducive to the general welfare of the community.

II. The next subject to which this principle must be applied, is that of Municipal Corporations. Our readers must be aware that corporate bodies exist in every part of the kingdom, created and

endowed, not for the benefit of the corporators for the time being, but for purposes of local administration and improvement, coupled frequently with the distribution of charity. In many cases the objects contemplated in the original foundation have become, in the lapse of time, wholly or partially useless ; and in many others, in consequence of the absence of control and superintendence, the funds are misapplied, sometimes to promote the pecuniary interests of the governing body in the corporation ; sometimes to augment their local influence, especially in the election of members of the house of commons ; and sometimes by an expenditure which, though not absolutely corrupt, is positively or comparatively inexpedient. Until the Reform Bill had passed, these evils were irremediable. The power of the corporations in the House of Commons, and the sympathy which exists between all those who profit by abuses, even when different in kind, rendered hopeless the attempt to correct, or even fully to expose, any mal-administration, however glaring. A stronger proof could not be given than the case of the corporation

of Leicester. Now, however, that power has changed hands, and that the House of Commons again consists of the representatives of the people, the sympathy of that house runs in an opposite direction. The majority of any house that can be elected, until the Reform Act has been repealed, must be constituted, not as formerly of the friends to abuses, but of those who are willing, and indeed eager, to remedy them. The country requires, and the House of Commons will demand, that the Corporation Inquiry be completed, and the results of that inquiry acted on; and that the large property and extensive powers possessed by the corporations shall be employed in the modes which, after a full investigation, shall appear most conducive to the real welfare of those for whom they are trustees. •

III. A third point in which the State is now required to interfere in the application of mortmain property, respects the claims of the Dissenters, both Roman Catholic and Protestant, to admission to the Universities. At Cambridge, they are now tacitly permitted to enter, and even

to be examined for degrees, but not to take them. At Oxford, they are not allowed to enter. The Dissenters require that parliament should interfere, and render them capable of taking degrees at Cambridge, and of entering, being examined, and taking degrees at Oxford. They do not require that it should be imperative on the heads of houses in either University to receive them. They merely ask for such an alteration in the statutes of the two Universities, as may enable them to receive the benefit of the instruction and degrees which those bodies supply, so far as the heads of houses may think fit to receive them. It is admitted that compliance with this request would be no diversion of the revenues of the Universities from their *original* purposes. The Universities were in fact founded for the benefit of Catholics; and so were the greater part of the colleges. To *compel* those colleges which were expressly founded for the benefit of the Church of England to admit persons of any other persuasion, would no doubt be such a diversion; but no such compulsion is proposed. All that is asked is, an

alteration of the statutes, not of the colleges, but of the Universities. It is admitted that the Universities themselves could do this, which of course they could not do, if it were a change of the purposes to which their revenues were destined by their founders. But they will not do it. The interference of parliament is therefore necessary. It is refused because it is an invasion of corporate rights: because, in the words of Mr. Secretary Goulburn, it would be *an absolute violation of the laws of property*: because the Universities are irresponsible bodies, with the application of whose revenues the legislature cannot interfere, even though the object of that interference be to forward the purposes of the original institution.

This is carrying the rights of corporations further than they ever were carried before. It is not merely a denial of the principle that the property of corporations is the property of the State, but it is an affirmation of the monstrous proposition that their endowment is their own, as fully as Blenheim is the property of the Duke

of Marlborough: that it is their own for all purposes but actual sale.

On this point also the opposition will fail. The Bill for the admission of Dissenters to the Universities was carried in the House of Commons by a majority, second only to those obtained on the Poor Law Amendment Bill. It cannot often be rejected by the House of Lords. When a powerful party requires an act of mere justice, all experience shows that it will succeed.

We have considered together these three questions:—the application of the surplus revenue of the Established Church in Ireland, the reform of Municipal Corporations, and the opening of the Universities to Dissenters, both because they all involve the admission or rejection of the great principle, that property in mortmain is the property of the State, and because they are among the first measures with which Sir Robert Peel's government must deal.

If he refuses them, he will have the support of the Ultra-Tories; and, on one of these points only, of Lord Stanley and his friends. But he will be

opposed by every other party in the house. He will fail, and fail under the weight of an overwhelming majority ; a majority which will force him to resign. The hostile majority of the new house may perhaps, and it is only a perhaps, be somewhat diminished in numbers ; but it will still be amply sufficient to force his resignation. At the lowest computation, it cannot be less than a majority of 100; and that majority will be far more vehemently hostile than the late one. The late house consisted in a great measure, of disciplined troops, accustomed to the courtesies of civilized warfare. The opposition, though differing in many points from Sir Robert Peel, respected his character, his knowledge, and his talents. The majority, for it will be a majority, that will be arrayed against him in the next house, will contain many more men of violent opinions and violent manners; men who will add personal to political enmity.—In the late house, he must have failed, if he had attempted to act on Ultra-Tory principles; but his failure after the dissolution will be more painful in its progress,

and less remediable in its consequences. And he will have subjected the country not merely to the ordinary evils of a premature dissolution and election, but to an election in a period of popular excitement; an election which will fill the House of Commons with precisely those persons who are least fitted to perform their high functions; persons from the two extremes.

But it is supposed by some that Sir Robert Peel will support all these measures; that he will reform the Irish Church, and the municipal corporations, and throw open the Universities.

We have no such expectation.

In the first place, we believe Sir Robert Peel to be an *honourable* man. We believe that when he proclaimed the injustice as well as the inexpediency of applying any portion of the revenues of the Established Church in Ireland, to any purpose but that of the spiritual instruction of the members of that church, when he trusted that the people of this country would always contend for the inviolability of the revenues of the Irish Church, he expressed his real sentiments. We

believe that when he declared that no modification which the bill for enabling the admission of the Dissenters to the Universities, might or could receive, would reconcile him to the principle recognized by it, he spoke from real conviction. And it is obvious, that in consistency with these opinions he must maintain the impropriety of parliamentary interference with any corporate property whatever. In the second place, we believe him to be a *prudent* man. He must be aware that no man can with impunity appear *twice* to change his opinions in favour of his interests. It is possible, and Sir Robert Peel is a signal instance of its possibility, that such conduct may for once be susceptible of explanation, or at least of forgiveness; but woe to the politician, or to the man, who hazards it again !

It is unnecessary, however, to speculate further on Sir Robert Peel's intentions, if his own declaration of them is to be trusted. He has treated all these questions in his recent address to the electors of Tamworth. The language which he has used is, indeed, vague—probably

intentionally so ; but it is sufficiently explicit to indicate his views. As the least urgent question, he begins by municipal corporations, and promises—to consider it. *Le Roi s'avisera*. The admission of the Dissenters to the Universities he opposes, but in order to diminish the evil of denying them degrees, he proposes to destroy the exclusive value of those degrees. “ As to “ the great question of Church Reform,” he proceeds, “ I have no new professions to make. “ I cannot give my consent to the alienation of “ church property in any part of the United “ Kingdom from strictly ecclesiastical purposes. “ I repeat now the opinions that I have already “ expressed in Parliament in regard to the “ Church Establishment in Ireland, that if by “ an improved distribution of the revenues of “ the Church, its just influence can be extended, “ and the true interests of *the established religion* “ promoted, all other considerations shall be made “ subordinate to the advancement of objects of “ such paramount importance.” By strictly ecclesiastical purposes, of course, are meant the pur-

poses of the Established Church. Sir Robert Peel adheres, as all but his personal enemies, if he have any, must have hoped, “to the opinions that he has already expressed in Parliament in regard to the Church Establishment in Ireland ;” that is to say, he adheres to the inviolability of its revenues. And adhering to them, he must cease to be a minister within two months after the meeting of the House of Commons.

But let us admit, merely for purposes of argument, that all this is mere trick,—that the address to the electors of Tamworth is a counterpart of the Letter to Dr. Curtis,—and that in the course of the next two months, Sir Robert Peel will discover the justice, or at least the expediency, of carrying all that he now declares he cannot consent to.

It may seem that this is all which those who are not partisans, those whose object is good government, without caring from whom they receive it, can require ; and, therefore, that although such an attempt would deprive Sir Robert Peel of the aid of the Tories and of Lord Stanley’s friends, it ought to give him that of all

the independent members of the house. The obvious objection to this view, and it appears to us a decisive objection, is, that it would countenance a degree of political immorality, which in no state of society it would be safe, and in our own it would be fatal, to sanction. It would sanction the opinion that, in political warfare, faith is not to be kept with the country, with enemies, or even with friends: that even among the leaders, on one side at least of the house, the debates are a solemn show, in which the *actores fabulae* wear the dresses and repeat the speeches which the nature of the plot, and the rules of the stage, require; but as soon as a new piece begins, have nothing to do with the characters which they supported in the former one. It would proclaim, that a man making the strongest protestations of his sincerity, may oppose, as a sacred duty, measures which he knows to be not only expedient, but essential; may drive, by his opposition, a part of the country to the brink of civil war; and, the instant he has succeeded in turning out the proposers of those measures, may introduce them

himself, and then receive, and from the very persons whom he has forced out, support and power as his reward. No nation could hope for public spirit, or even common honesty, from its servants, if it were thus to remunerate falsehood and faction.

But another contingency seems to exist. It seems possible that the present government, though not venturing to give assistance, or even consent, to these measures, may yet determine, and be permitted, to hold office while they are passed, and after they are passed ; in short, that we may recur to the system of “ the Tories in place and the Whigs in power ;” the Treasury benches filled by his Majesty’s ministers, and the measures carried by his Majesty’s opposition. This would be possible, if the majority of the Lords sympathized with the majority of the Commons. But it is well known, that on these points, as, indeed, on many others, the two houses are directly opposed. The consequences of this opposition, and the mode by which it must be got rid of, we shall consider in a subsequent part of this Essay. It is sufficient for

our present purpose to state, that while this opposition between the two houses continues, the House of Commons will be unable to effect any liberal measures without the active aid of the ministry for the time being. To bring in, discuss, commit, amend, recommit, and pass a bill for the reform of the Irish Church, with the absolute certainty of its scornful rejection as soon as it had passed the lobby, would be a mere waste of time and irritation. The system of government to which we have referred never was good ; but with the Reform Bill it ceased to be practicable. Unless the Commons are ready to throw the country, bound hand and foot, before the present Ultra-Tory majority of the Lords, they must insist on the appointment of a ministry willing and able to control that majority.

But even supposing none of these insurmountable objections to exist, and the new ministry to be personally unexceptionable, there are circumstances connected with their appointment which must deprive them of the support of those who wish to consult the permanent interests of the country.*

It has for many years been admitted, that a minister, though appointed by the Crown, and nominally subject to be dismissed *mero motu regis*, without warning or explanation, really holds his office at the will, not of the Crown, but of the two houses of parliament. He might be disliked by the court, he might be unpalatable to the king, it might be his duty, indeed, to take steps which would necessarily produce one or both of these results ; but while he retained the confidence of the houses of parliament, he was, according to the doctrine which prevailed until the 15th of last November, secure. And the necessity of this principle is obvious. If a minister held office at the caprice of the court, the court, not parliament, would be the field on which the battles for power would be fought. The arts which succeed in courts, and the measures which please courts, would be the arts and the measures adopted. Despotic governments and constitutional governments have each their peculiar merits and their peculiar inconveniencies ; but this would be a mode of uniting the faults of both : the slow and cumbersome machinery of the

one, and the ignorance, prejudices, corruption, and vacillation of the other. Even in despotisms, where public opinion has acquired any force, deference to that opinion prevents any capricious change. “C’est moi,” said Louis XV., “qui nomme les ministres, mais c’est la nation qui les renvoie.”

Those whom this reasoning does not convince, may, perhaps, yield to the authority of Mr. Burke. That acute observer, after dwelling on the necessity that a minister should be connected not only with the interests, but with the sentiments and opinions of the people, adds, in words which we might now adopt, “These are considerations
 “ which, in my opinion, enforce the necessity of
 “ having some better reason in a free country
 “ and a free parliament for supporting the ministers of the crown, than that short one, ‘*That the King has thought proper to appoint them.*’
 “ There is something very courtly in this; but
 “ it is a principle pregnant with all sorts of
 “ mischief, in a constitution like ours, to turn
 “ the views of active men from the country to
 “ the court. Whatever be the road to power,

“ that is the road which will be trod. If the
 “ opinion of the country be of no use as a
 “ means of power or consideration, the qualities
 “ which usually procure that opinion will be no
 “ longer cultivated. And whether it be right in
 “ a State so popular in its constitution as ours,
 “ to leave ambition without popular motives, and
 “ to trust all to the operation of pure virtue in
 “ the minds of kings, and ministers, and public
 “ men, must be submitted to the judgment and
 “ good sense of the people of England.—When
 “ a ministry rests upon public opinion, it is not
 “ indeed built upon a rock of adamant ; it has,
 “ however, some stability : but when it stands
 “ upon *private humour*, its structure is of stubble,
 “ and its foundation is on a quicksand. I repeat
 “ it again—he that supports every administration
 “ subverts all government. The reason is this :
 “ the whole business in which a court usually
 “ takes an interest goes on at present equally
 “ well in whatever hands, whether high or low,
 “ wise or foolish, scandalous or reputable ; there
 “ is nothing, therefore, to hold it firm to any
 “ one body of men, or to any one consistent

“ scheme of politics. Nothing interposes to pre-
 “ vent the full operation of all the caprices, and
 “ all the passions of a court upon the servants of
 “ the public. The system of administration is open
 “ to continual shocks and changes upon the prin-
 “ ciples of the meanest cabal, and the most con-
 “ temptible intrigue. Nothing can be solid or
 “ permanent. All good men at length fly with
 “ horror from such a service. Men of rank and
 “ ability, with the spirit which ought to animate
 “ such men in a free State, while they decline the
 “ jurisdiction of dark cabal on their actions and
 “ their fortunes, will, for both, cheerfully put
 “ themselves upon their country. They will trust
 “ an inquisitive and distinguishing parliament, be-
 “ cause it does inquire and does distinguish. If
 “ they act well, they know that in such a parliament
 “ they will be supported against any intrigue: if
 “ they act ill, they know that no intrigue can
 “ protect them. This situation, however awful,
 “ is honourable. *But in one hour, without any*
 “ *assigned or assignable cause, to be precipitated*
 “ *from the highest authority to the most marked*
 “ *neglect, is a situation full of danger, and des-*

“ titude of honour. It will be shunned equally
 “ by every man of prudence, and every man of
 “ spirit.”*

It is to be added, that if this principle is to be abandoned ; if the king is to be at liberty, merely because he thinks his own opinion better than that of the nation speaking through its representatives, to dismiss a government which enjoys the full confidence of the House of Commons ; if he is at liberty to do this at his own personal pleasure ; this absurdity follows, that his Majesty can act without a responsible adviser in one point, and on one point only, that point being the most important one which he ever can have to consider. The question, who is responsible ?—for some one must be responsible—for the sudden and total dismissal of a ministry, has not been decided since our constitution assumed its present form, because in fact it has not been necessary to raise it. A parliamentary vote or a resignation has preceded every previous change. It has now been raised, and painful as the discussion is,

* Thoughts on the Cause of the Present Discontents.—Burke's Works, Vol. II. Pp. 265—326.

it must be decided. It must be decided not with reference merely to the present emergency, not as a party or temporary question, but as one of permanent constitutional law.

The king of course is not responsible. Royal responsibility is inconsistent with monarchical government. Of course, too, it would be absurd to fix the responsibility on those persons who may be supposed to have had private access to his Majesty's ear. The country does not recognize such advisers, either for good or for evil. The domestic comfort and privacy of the sovereign require that those who, filling no political office, are familiarly about his person, should be considered to be, as in reality it is their duty to be, unconnected with politics. The persons on whom this responsibility falls most naturally and most usefully, are those who are to profit by the act in question, the immediate successors of the dismissed administration. If it be once understood that, whether really consulted or not, they are to be considered as having advised the measure which, by their acquiescence, they have adopted, and that no administration, for whom a vacancy

has been made by a court intrigue, or by mere personal predilections or dislikes, or by caprice, or, in short, on any ground of which parliament does not recognize the sufficiency, however personally eligible, will receive parliamentary support, we shall return to our established system, and the events of last November will be a warning instead of a precedent.

It may be asked then, what was the Duke of Wellington to do when he was summoned from the hunting-field at Strathfieldsay, and the King threw himself on his loyalty? Was he to refuse to aid the King in his difficulties?

Unquestionably it *was* his duty so to refuse.

It was his duty to say, not in words, but in substance, "Four months ago, your Majesty appointed Lord Melbourne your minister. The country approved of the choice, and nothing has occurred to diminish its approbation. I cannot be a party to any change which has even the appearance of having originated in intrigue, or caprice, or in any personal feelings whatsoever."

It will be the duty of the houses of parliament to say "We will not bind on our necks, and on those of our posterity, a yoke from which the country has worked itself free. We will not abandon the trust which the practice of the constitution has reposed in us of deciding by what party the government shall be carried on."

It is now the duty of the electors, since Sir Robert Peel is blind enough to appeal to them, to proclaim, "We will return those men, and those men only, who will maintain their station as representatives of the people. We have not broken the chains of an oligarchy to put on those of a court. We will not sanction a single step towards a return to those unhappy times, when the sovereign was the real minister, and placed and displaced at pleasure, the puppets who bore the name."

It appears, therefore, that, under any combination of circumstances, the present administration cannot stand. And the arduous question is forced upon us, On what terms are their successors to take office?

It is obvious that they cannot accept it *simpliciter*, without pledge or condition, subject to be summarily ejected, while apparently possessing the full confidence of the crown, and of the people, without even a pretext that will bear a moment's discussion. Some pledge must be given, and it must be more than a mere nominal pledge: it must consist of something more than mere words, which four months after may be forgotten or explained away, or disavowed. It must be a pledge, deriving its force, not from the giver, but from the thing given. It must be a pledge, not merely promising the means of good government, but actually affording them.

Our readers must at once acknowledge that only one such pledge is possible, and that is, a majority in the House of Lords. It is now admitted, indeed it has long been obvious to every impartial observer, that ever since the passing of the Reform Bill the hostile majority in the lords has been the great obstacle to measures of improvement, and even of safety. While that majority continues virtually impregnable, it is the master of the administration, the House

of Commons, and the country. Even Sir R. Peel, at the late Mansion-house dinner, promised the redress of only those abuses which can be remedied, “*consistently with the independent action of the House of Lords.*” Of what use is the expensive farce of elections, debates, and votes, if a small, compact, irresponsible, and practically unalterable body, can oppose, and for ever maintain, a peremptory veto? if the House of Lords is the ultimate court of appeal, not only on civil but on political matters, before whose tribunal the Commons are allowed indeed to debate every question, but without power to influence the judgment?

It may be said, perhaps, that such a state of things cannot be fundamentally wrong, since it is, in fact, the ancient constitution of the country; the constitution under which we have prospered for centuries. It may be said that the mutual independence of the two houses is so thoroughly of the essence of our institutions, that there is only one instance on record, in which it has been broken in upon, and the submission of the lords avowedly forced by a creation of peers.

The answer is, that since the time that parliamentary, instead of monarchical, government became the real constitution of this country, no such mutual independence has existed. The lords have in fact been independent of the commons, because the commons have been dependent on the lords. The influence of the lords in elections was so preponderating, that they were virtually represented in the commons : and the majority of the commons expressed the opinions not of the body of the people, but of an assembly partly elected by the people, or rather by a small portion of the people, and partly nominated by the peers. On some insulated points, such as the granting offices in reversion, and catholic relief, the two houses differed, but as to the general management of affairs, they coincided. The spectacle of one party omnipotent in one house, and its opponents in the other, was never exhibited. Such a state of things would have been incompatible with good government, while it lasted, and if permanent, with any government whatever. The theory of three estates, each acting independently and mutually controlling one another,

or in Sir W. Blackstone's own words, "Two
 "houses naturally drawing in two directions of
 "opposite interest, and the prerogative in another
 "still different from both," is perhaps a good
 subject for school-boys' themes, but is totally in-
 applicable to the affairs of a great nation.

The Reform Bill gave independence to the
 House of Commons, and by doing so, destroyed
 its sympathy with the existing House of Lords.
 It produced two hostile assemblies; one recog-
 nizing Lord Althorp, and the other the Duke of
 Wellington, as its leader. It is useless to deplore
 this result; it is useless to lament that it has
 changed the old constitution. It has been done,
 and it cannot be undone. The only course for a
 prudent statesman is, to turn it to the greatest
 possible good; or, if that expression is preferred,
 to the least possible evil.

If it be true, as must have been predicted, *à*
priori, and as has been proved by experience,
 that good government cannot be the result of two
 equal and clashing authorities; each irresistible
 in defeating, and therefore each powerless in
 carrying the measures on which our safety

depends ; it is clear that one must be made practically subordinate to the other ; that the general management of affairs, and the ultimate decision of all fundamental questions, must rest with the one, and that the other must be confined to the improving of details, and the suspending, but not the definitively rejecting, of important enactments. It is clear also that these subordinate functions cannot be assigned to the House of Commons. Nothing could be more true than the prophecy of the opponents of the Reform Bill, that in a House of Commons, elected by the people, the real government of the country must reside. Sir Robert Peel avows that he “ considers the “ Reform Bill a final and irrevocable settlement “ of a great constitutional question ; a settlement “ which no friend to the peace and welfare of “ this country would attempt to disturb, either by “ direct or by insidious means.” But he omits to state what the great constitutional question was, which has thus been finally and irrevocably settled. We shall supply this omission. The question, which after two years’ debate, after a solemn appeal to the country,* after an

opposition of which the resoluteness was pushed to obstinacy, and the courage to temerity, was finally and irrevocably settled, was whether the empire should be governed by the lords influencing the commons, or by the commons influencing the lords. This is the answer to the Duke of Wellington's celebrated question, "How will the government be conducted with a parliament such as will be returned by this bill?" It will be conducted by making the lords and the commons change places; by rendering independent that branch of the legislature which was formerly subordinate, and rendering subordinate that which was previously paramount.

But how is this change to be effected? Of course, in the first instance, by the use of that sole safety valve now afforded by the constitution—the creation of peers. It may be said, that such a creation, though it might relieve our present difficulties, would create a permanent evil by the large increase of the titled aristocracy. The obvious remedy is, that the new peers, or a portion of them, should be created only for life.

It is strange that a peerage, not of inheritance, should be considered an anomaly, or even a novelty. Without recurring to the cases of the Scotch and Irish peers, or to the English spiritual peers, who sit only while bishops, we may recall to the reader's recollection the case of the Irish bishops, who sit only in every sixth session. Express creations of English peerages for life occur in our earlier history; and it appears that they may be legally created for even a shorter period. When a peerage is created by writ, it is said, indeed, to confer, by law, an estate of inheritance; but when it is created in the usual mode by patent, the duration of the grantee's interest depends not on any general rule of law, but simply on the words of the grant. If a peerage be granted to a man and his heirs, it will descend to any of his relatives male or female, lineal or collateral. If it be granted, like the Devon earldom, to him and his heirs male, it will embrace all his relatives, lineal or collateral, of male descent. If it be given to him and the heirs of his body, it will vest in any of his posterity, male or female; or if it be

given in what is now the more usual form, to him and the heirs male of his body, it will descend only to his male posterity. If it be given to him indefinitely, without any mention of his heirs, it will cease with his life. And it has been laid down in the House of Lords, and by the highest legal authority, that if a peerage be granted to a man during the life of another person, it will cease on the death of that other person.

Such a grant as the last, indeed, would be obviously inconvenient ; but it appears to us, that peerages for the life of the grantee would be useful, not only in the present emergency, but as a permanent usage. They might be taken by many persons eminently fitted to serve the public in the House of Lords, who cannot accept, with prudence, hereditary honours. And the fact cannot be disguised, that it is only by enlarging the field of selection, and thus opening its doors to men eminent for character, knowledge, and talents, though unaccompanied by great wealth, that the House of Lords can preserve that degree of public respect, which is essential to its utility.

Its boroughs are gone, its comparative wealth has diminished, and is diminishing ; it has in a great measure lost its claim to the reverence which accompanies illustrious descent ; its influence must hereafter depend mainly on the personal merit of its members.

It may be objected, however, that if the example of a large creation is once set, as each successive ministry will create its own majority, we shall in no long time be encumbered by an assembly too numerous for useful deliberation. We see no reason for that fear. The example once set, will not be followed, for it will not again be necessary. When once the supremacy of the House of Commons has been established ; when once it has been acknowledged that the minister who has the confidence of the Commons is to be recognized by the Lords, and to be free, not only from factious resistance, but from that systematic opposition, which is fair and even beneficial in the Commons ; there will be no more need of merely political creations. The hostile majority, if there be one, will act as it was at last forced to act on the Reform Bill ; it will

abstain from giving votes of which the ultimate result must be its own destruction as a majority.

We may be asked, what will be the use of a House of Lords, nominally independent, but with no real function except to register the decrees of a superior? We might perhaps say, that we are not bound to answer this question; that we are proposing not the institution of a House of Lords, but means by which a House of Lords may, in the altered state of the country, be prevented from doing harm. But we *will* answer it. A House of Lords, though practically subordinate to the House of Commons, will be eminently useful by improving details, by suggesting amendments, by positively suspending the enactment of some measures, and by forcing the reconsideration of all. Under any circumstances, a House of Lords is expedient, but it is absolutely necessary with the present constitution of the House of Commons, influenced as that body must be, by the passions and prejudices of the people. All history teaches the mischief of a sole elective assembly. * The experiment, often as it has been

repeated, has always signally failed. It is because we value a House of Lords, because we believe its existence to be absolutely essential, that we are anxious to make that change, if it can be called a change, in its constitution which is necessary to ensure, or rather to permit its permanence. If its ill-advised friends allow it to encounter the House of Commons, it will break like glass in the collision.

One objection, however, may be made to our plan, which would be formidable, if the means of obviating it were not at hand. The promotion to the peerage of a considerable number of distinguished commoners might deprive the people for ever of the power of electing many of those who might have been its best representatives, and deprive the House of Commons for ever of many of its most useful members. This inconvenience might be palliated by selecting the new peers from that large class of men of real merit who, from the want of local connexion, or from aversion to the arts by which many of the reformed constituencies, deteriorated as they are by the preservation of some of their old corrupt materials,

must still be influenced, are unable to make their way into the House of Commons. But a more effectual remedy would be, to get rid of that senseless regulation which prohibits an English or a Scotch peer from sitting as a commoner. We term this a senseless regulation, because we cannot discover on what pretext of utility it is founded. It arose probably, as far as English peers are concerned, from accident. It has been continued principally, without doubt, because no serious attempt has been made to get rid of it, and perhaps partly from the desire of the principal commoners to monopolize the seats in their own house, and partly from the contempt in which the peers of ancient times held the inferior assembly. But even at present its inconvenience is palpable. Who is there, even among Tories not blinded by faction or ambition, who does not anxiously wish that it were possible to retain Lord Spencer in that house in which his influence was so powerful and so beneficial? or to restore Lord Brougham to the field in which he was so long the champion of improvement? On what possible ground, not of fanciful analogy, or legal

fiction, but of real convenience, is the choice of the people restricted? Of course we do not wish to expose a peer to the rule which nominally requires every one who is elected to serve; nor would we allow him to vary his character at pleasure, and to pass and repass in the same session from house to house. We would require him, if chosen a member of the House of Commons, and willing to serve, to declare himself a commoner for that parliament. And we believe that this trifling sacrifice of custom to reason would more than compensate for the subtraction of that number of commoners whose promotion is necessary in order to give to the next administration a majority in the House of Lords.

We have now stated the grounds on which we believe that the present ministry cannot stand; and we have also stated the condition on which their successors, whoever they may be, must accept office. We proceed to give a short outline of some of the measures which we think must be carried by the next administration.

We will begin with two subjects which are of less importance than those to which we must

subsequently allude, merely because they are connected with the matter which we have just been discussing—parliamentary usage.

The first parliamentary change which we have to propose respects the admission of men in office to the House of Commons. Under the old constitution of that house, the rule, that the acceptor of an office under the Crown, even though it be a mere change from one office to another, forfeits his seat, was productive of little real inconvenience: a nomination seat was always at hand to supply the loss of an elective one. But, under the present system, the minister who, on his acceptance or change of office, is rejected by his former constituents, must remain excluded, in all probability, during the session; perhaps during the parliament.

One necessary consequence is, to throw an undue proportion of offices into the House of Lords. Another is, to fix, before the commencement of a parliament, the cast of characters, and to preserve them, as much as possible, unchanged, however the public service may require alteration. A third is, when a change

must take place, to select for the vacant offices not the men that are best fitted, but those that are most likely to be re-elected. A fourth is, the depriving the whole country of the parliamentary services of perhaps an important public officer, if the temporary alienation of his constituents, arising perhaps from jealousy, or caprice, or interest, or from some more justifiable, but yet private cause, prevents his re-election. These are consequences, but certainly not beneficial consequences, of the Reform Bill. The electors of Cambridge were the proper persons to decide who should be the member for Cambridge : they knew the wants of their own town. They were not the proper persons to decide who should be the Colonial Secretary ; but they did decide it, and in fact decided it twice over. When it became necessary to appoint a successor to Mr. Stanley, the question whether Mr. Spring Rice should or should not be so appointed, depended on the opinions manifested by the ten-pounders and freemen. If the borough had shown an intention to reject him, it is not likely that he would have accepted the Colonial Seals ; and if

it afterwards had actually rejected him, it is very doubtful whether he would have been able to retain them. It is not easy to conceive a means by which a more important question could be subjected to a more utterly incompetent tribunal. It depended perhaps on the Vice Chancellor's gardener, who should be the real governor of the vast colonies of England.

Four remedies may be suggested.

I. To give to a certain number of ministers, seats and votes *ex officio*.

II. To give them seats and the right of speaking, but not votes unless elected.

III. Simply to repeal the law by which a member accepting office vacates his seat.

IV. To repeal that law so far as respects a mere change of office, allowing the acceptance of office by a person not previously in office to occasion a vacancy.

The principal objection to the first plan is the addition that it would make to the already excessive number of members. Its principal advantage, as compared with the second, would be, that it would render practicable a further

regulation, that no minister should represent a constituency. The influence of a constituency on a minister is often as mischievous as its influence on a mere representative is beneficial. It has a constant tendency to warp his public measures. How deeply must Sir R. Peel, how deeply even must the country lament, that he ever was the representative of Oxford !

The second plan, if generally adopted, would be open, to a certain extent, to the same objection as the first ; namely, that of increasing the number, not indeed of voters, but of speakers, in the House of Commons. If *not* generally adopted, it would create an invidious distinction between the ministers having and not having votes. The comparison would have a tendency to exhibit the latter in the character of retained advocates, supposed to speak rather their instructions than their convictions. But admitting the force of these objections, we are inclined to think that if the first plan, to which we give the preference, should be considered too great an innovation, it would be wise to adopt the second.

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Either plan would cure the great and growing inconvenience of which we are complaining.

Either plan would also palliate another still greater inconvenience, that arising from the small number of persons from among whom those who are to fill the higher offices of state are now taken, and, what is a necessary consequence, the frequent absence among those who are selected, of an appropriate education. The inferior and comparatively unimportant and easy duties of government are generally performed by persons specially trained and instructed for those purposes; the superior and difficult ones are not. It seems to be supposed that a knowledge of politics, the most extensive and most difficult of all sciences, is a natural appendage to persons holding a high rank in society, or may be acquired at intervals snatched among the bustle and the occupation of laborious and engrossing professions.

In despotisms, the principal evils arise partly from the ignorance, and partly from the bad passions of the rulers: in representative governments they arise principally from ignorance.

And this must continue to be the case, as long as the holders of considerable offices are selected only from among the peers, or those whose incomes enable them to sit in the House of Commons. Why have we never any want of good physicians, or lawyers, or engineers, but the greatest difficulty in finding competent ministers? Because the most important of all businesses is not made a *profession*, and cannot be made one while the performance of its duties implies a peerage or a fortune. It is to be observed, that both the economical reforms of late years, and the Reform Act itself, however beneficial in themselves, have tended to augment this evil. The first, by destroying many sinecures, and other provisions which diminished the imprudence of selecting political employment as a means of subsistence. The second, by abolishing the nomination boroughs, through which, men without the property or the leisure to obtain parliamentary influence, could yet obtain seats. We never can calculate on being well governed for a continuance while this worst kind of oligarchy continues; not the merely

allowing to men of property great political influence, for that they ought to have, but the entrusting to them exclusively, the actual management of affairs. If office of itself gave a seat in the legislature whether with or without a vote, the first advantage would be, that we might select the holders of eminent offices from among all the educated persons in the kingdom instead of being confined, as we now are, to the members of two assemblies, comprising, together, about one thousand persons. The second advantage would be, that, as the expenses of Parliament would no longer swallow up half a salary, prudent men might follow the public service as a profession.

The third plan, that of merely repealing the law by which acceptance of office vacates a seat, though a less effectual remedy for the evils in question, would be a great diminution of them; and it would probably meet with less opposition than either of the plans which we have previously discussed. The present practice is an instance of that semi-barbarous jealousy on the part of the country, both towards the crown and towards its own representatives, which, while

it gives apparent power to the people, really benefits only a narrow oligarchy; and whatever may have been the original grounds for such a custom, they have now passed away. Now that the constituencies have the power in their own hands, they are not likely to elect men who can be bribed by office into a sudden dereliction of their principles. Nor are those offices which vacate a seat, but are tenable with one, sufficiently numerous, or valuable, or permanent, to be the source of much parliamentary corruption. The bribes to which men yield, are not those against which the rule is directed, but military or naval, or ecclesiastical or legal promotion, for themselves or for their friends, or provisions in the administrative departments for their dependents. The present law is not more efficient than a prohibition of bribery by means of sovereigns would be, leaving bank notes untouched.

The fourth plan would be a half measure. Though it would diminish the present inconvenience, it would not remove it, and yet it would sacrifice the principle for the sake of

which that inconvenience is submitted to. It might to a great extent be evaded by splitting offices, and appointing persons, while out of parliament, to small offices, in order to enable them to accept more important ones, and yet retain their seats. A stronger objection is, that it would give to existing placemen a monopoly of office. Nor would it at all diminish the tendency of the present system to force a dissolution on every change of ministry. If we now suffer that inconvenience, it is probably owing to the fears of the present ministry, that some of their important members might not have been re-elected by their late constituencies. They prefer the chances, poor as they are, of success at a general election to the danger of defeat in a few boroughs, which would, in fact, have been able to prohibit their meeting the late parliament.

With these remarks we shall dismiss the question of the admission of ministers to the House of Commons, repeating our conviction of the absolute necessity of finding some means to obviate an inconvenience, the magnitude of

which will every day force itself more and more into notice.

The other constitutional change which appears to us to be necessary, respects the dissolution of parliament on the demise of the crown.

By the old law, the death of the king was the dissolution of parliament. And this was a natural custom when a parliament formed no part of the ordinary government, but was merely assembled from time to time as occasion required. As it was not clear that the successor would want its advice or aid, the parliament separated on the death of the person who had convoked it. When the existence of a parliament had become the rule instead of the exception, the obvious inconvenience of a dissolution at the instant of an accession occasioned the Acts of the 7 and 8 William III., and the 6 Ann, to be passed, which enacted that the parliament in being should continue for six months after the demise of the Crown, unless sooner prorogued or dissolved by the successor.

It is not easy to suppose any real grounds on which the duration of parliament was not made

independent of the death of the king, instead of being prolonged for only six months. It could not have been intended for the benefit of the successor, as it is, in fact, a restriction on his prerogative. Such an enactment would be reasonable only under the supposition that he had no power of dissolving. It could not have been intended to give the people an opportunity of choosing new men to represent them in a new state of things, since, both according to the theory and practice of the constitution, a demise of the crown, if unaccompanied by a change of the parliament, would produce no alteration. At no time is a change of ministry less probable, or less to be wished for, than immediately after an accession. And the tendency of a forced dissolution to produce such a change is one of the objections to it. It was this law which, in fact, occasioned the downfall of the Wellington administration in 1830. That downfall may or may not have been desirable, but it would have been better if it had been owing to any other cause than the hazard of an election at a time of popular excitement.

The great object of legislation, indeed of the greater part of human conduct, is to narrow the empire of chance. It is only by forcing, as far as it is possible, events to pursue a fixed train, we can regulate our own conduct. To make a law for the express purpose of leaving to accident so important an event as the termination of a parliament, is a voluntary destruction of one of the means of good government. It is to enact an inconvenience.

It is some objection also that it so much increases the speculation and discussion about the health of the existing monarch. It is not decorous, or in any respect advisable, that on every rumour as to the king's health, there should be two or three hundred thousand of those constituents, who consider an election as a mere source of bribery and riot, anxiously exaggerating every unfavourable statement; or that while the king is living, there should be forty or fifty candidates actively canvassing on the anticipation of his death. To this change we anticipate no objection.

With respect to the administrative measures of

the next ministry, it is of course needless to express our belief that it must undertake those which we have described the country as resolved to obtain. There are others, to which we have not yet alluded, but which we need not dwell on, as their necessity is universally admitted, and the only points still undecided are their details. Such are, the Commutation of Tithes, both in England and in Ireland; the relieving the Dissenters from their scruples respecting the celebration of Marriage; and, so far as justice requires it, from the payment of Church Rates; the reform of the Ecclesiastical Courts, the improvement of the Law of Debtor and Creditor, and the revision and amendment of our Criminal, Fiscal and Commercial Codes. There are other questions, the necessity of considering which every one admits, but on which no party seems as yet prepared with any plausible scheme. These are, the promotion of the religious and moral education of the labouring classes, and what is intimately connected with it, and cannot be more fully stated than in Sir R. Peel's own words:—“ The removing

“ every abuse that can impair the efficiency of
 “ the ecclesiastical establishment, extending the
 “ sphere of its usefulness, and strengthening and
 “ confirming its just claims upon the respect
 “ and affections of the people.” These are tempt-
 ing subjects, but far too extensive to be crowded
 into a pamphlet. We doubt whether without
 the aid of a commission there are any means
 by which either of them could be properly
 prepared for the consideration of the legis-
 lature.

We doubt indeed whether the imperial parlia-
 ment, comprising persons of every shade of belief,
 scepticism, and disbelief, some friendly, some
 hostile, and some indifferent both to the Church
 and to its doctrines, is the authority by which
 the latter question ought to be decided. While
 the legislature consisted exclusively of Church-
 men, it was perhaps proper that it should legis-
 late for the Church. Now it has ceased to be
 so, it seems fit that it should avowedly abdicate
 that function, and allow the members of the
 Established Church to enjoy a right which is
 conceded to every other religious community,
 whether Jews, Quakers, Anabaptists, or Me

thodists, to manage their own strictly religious affairs. To a certain degree indeed parliament must once more interfere. It now possesses, though, by having long disused, it seems to have admitted that it ought not to possess, the power of regulating the concerns of the Church. Its last act, in this respect, ought to be to transfer that power into hands in which the members of the Church can repose confidence, and to define its limits and prescribe the general outline of the means by which it shall be exercised. These last are matters of general jurisprudence, and involve no peculiarities of christian belief: the purely spiritual concerns of a given church are matters for the exclusive consideration of the members of that church.

But there are two measures, perhaps equal in importance and in urgency to any of those to which we have adverted, which have as yet attracted the serious attention of no party in parliament, and of very few political writers. These are, a provision for the Roman Catholic clergy,—and the amendment of our system of Secondary Punishments. We will devote to them our few remaining pages.

Ireland has long been a political anomaly. With a most fertile soil, a fine climate, an admirable situation, an intelligent, and, when they have any motive, an industrious population, a free press, trial by jury, unrestricted commerce, moderate taxation, and an enlightened government ;—it is among the most poor and most discontented portions of Europe. Its discontent has been attributed to its poverty ; but there are other countries as poor as Ireland, yet attached to their institutions and their governments. It has been attributed to the difference in religion between the government and the people ; but in a large portion of Europe, the utmost harmony subsists between subjects and kings, who are yet opposed to one another in religion. The catholic king of Saxony is popular among his protestant, and the protestant king of Belgium among his catholic, subjects. It has been attributed to recollections of ancient independence and defeat. But Wales was conquered under much the same circumstances as Ireland ; and Wales exhibits no discontent. It has been attributed to difference of language ; but Welsh again

differs from English as much as Irish can do. We rejoice to think that these are not the causes of the alienation which now exists in Ireland between the government and the majority of the people; for if they were, the case would be hopeless, since none of them admit of any speedy remedy, and some are incurable. The real cause of the evil appears to us to be simple, and to be remediable, as a remote cause, by a single Act of Parliament; though of course much time must elapse between the removal of the original cause, and the cessation of its effects. This cause is the relation in which the Roman Catholic clergy stand towards the government on the one hand, and towards the people on the other.

We have already stated that the endowment of the protestant and the destitution of the catholic church is both an insult and an injury, and that the bulk of the Irish people, while furious under the insult, seem insensible to the injury, and are therefore merely anxious to demolish the protestant church, without any wish to endow their own. But the feelings of the priesthood are very different. They have thought principally of

the injury. They have contrasted their uncertain incomes, the price of constant labour, and yet wrung with difficulty and contest from their destitute population, with the ample, and, until the late troubles, the secure revenue obtained generally with little exertion, and often with none, by their protestant rivals. And when they have made that comparison, they reflect that the ample and secure revenue was the former endowment of their own church ; and that their predecessors were deprived of it for maintaining what they believed, and what the present clergy believe, to be the truth. It is impossible that a clergy in this situation should be well affected towards the government, which they hold, and hold justly, to be responsible for its continuance. It is impossible that their disaffection should not be propagated among the people. We must recollect that the connexion between the Irish catholic priest and his parishioners is far more intimate than that which exists between any other body of religious teachers and those committed to their care. The peasant depends on his priest for masses, for absolution, for extreme unction ; in

short, for a variety of wants which are not the less urgent for being, according to the belief of protestants, founded on superstition. The priest is dependent on the peasant for the actual means of existence. Nor is the sympathy arising from this mutual dependence weakened by any considerable difference of birth, or early associations. The priest is often the son of a cottier, born in the same station, and reared with the same prejudices as his flock. If the present state of the catholic clergy in Ireland were productive of no other consequence than its tendency to disseminate disloyalty and hatred of the English connexion, this alone would be more than a sufficient ground for its immediate change.

But this is not the sole or even the principal ground on which we advocate a provision for the catholic clergy. In legislating for Ireland our first duty is to remove the evils which press on the Irish people; removing those which affect ourselves ought to be a secondary consideration. It has long been suspected that the dependence of the priests on the people has been the principal cause of the misery and crime of Ireland. Mr.

Croly, the Roman Catholic priest of Ovens and Aglis, has manifested, by the most abundant evidence, the truth of this suspicion.

As his pamphlet, though recently published, is not easily procured, we will extract some of its most material passages.

“ The revenue of the parish priest is derived
 “ from a variety of sources. There are con-
 “ fession dues, marriage dues, baptism dues,
 “ mass dues, and dues for anointing. He is
 “ also paid at times for attendance at funerals.
 “ Confession furnishes the most steady and con-
 “ stant source of revenue. Twice a year he
 “ collects confession money under the denomi-
 “ nation of Christmas and Easter offerings. The
 “ mode of making this collection is not very
 “ consonant to the spirit of religion. The priest
 “ selects one or two houses in every plough-land
 “ or neighbourhood, where he holds according to
 “ appointment what are called ‘ stations of con-
 “ fession ;’ and it is required that the families all
 “ about should meet him when he comes among
 “ them, upon these occasions ; should make their
 “ confessions, receive the Holy Sacrament, and

“ finally pay the customary dues. It sometimes
 “ happens that this business is not transacted
 “ quietly. If increased dues are demanded—a
 “ thing of occasional occurrence—disagreeable
 “ and sometimes scandalous altercations ensue.
 “ Similar scenes occur when individuals attend
 “ and crave time for payment ; while such as
 “ absent themselves, unless they send the dues
 “ as an apology, are generally made the subject
 “ of public abuse and exposure.”

“ Come we now to another item of eccle-
 “ siastical revenue—marriage money.—The first
 “ thing done, when there is question of marrying
 “ a couple, is to make a bargain about the
 “ marriage money. This sometimes causes a
 “ considerable delay. The remuneration or sti-
 “ pend prescribed by the diocesan statutes is
 “ never thought of for a moment. Indeed all
 “ statutes respecting money matters are a mere
 “ dead letter. The priest drives as hard a
 “ bargain as he can, and strives to make the
 “ most of the occasion.—But this is only a
 “ preliminary proceeding. Demands of money
 “ are made upon such as are present at the

“ marriage—at least upon the male portion of
 “ the assembly. This gives rise not unfrequently
 “ to a new and unhallowed scene. The trans-
 “ action may, by chance, pass off quietly ; that
 “ is, when every one contributes according to
 “ the wishes and expectation of the clergyman.
 “ But this does not always happen. In general
 “ the demands are considered unreasonable, and
 “ the priest is disappointed in his expectations.
 “ Some endeavour to evade the payment of any
 “ contribution ; others give but little ; and the
 “ few that please the priest are mere exceptions
 “ to the general rule. What is the consequence ?
 “ The clergyman, after begging and entreating
 “ for some time to little purpose, gets at length
 “ into a rage, utters the most bitter invectives
 “ against individuals, abuses, perhaps, the whole
 “ company, and is abused himself in turn ; until
 “ at length the whole house becomes one frightful
 “ scene of confusion and uproar : and all this
 “ takes place at the administration of one of the
 “ Sacraments of the Catholic Church—owing,
 “ too, to the present system of ecclesiastical
 “ finance.

“ Baptism money, an item that helps not a
 “ little to swell the amount of church revenue,
 “ comes next to be considered. The general
 “ rule is to baptize at private houses, or at the
 “ priest’s house or lodgings, and under circum-
 “ stances not of a very hallowed description.
 “ One leading feature in the transaction, on the
 “ part of the priest, is to get in the customary
 “ offering, and to swell, if possible, its amount.
 “ The father of the infant pays, as they say, for
 “ the baptism ; the gossip money is demanded
 “ of the sponsors, who sometimes amount to four
 “ in number and upwards, contrary to the canons
 “ of Trent, but not contrary to the pecuniary
 “ interests of the priest. This money is often
 “ demanded previous to the administration of
 “ the rite ; and if not promptly and satisfactorily
 “ paid, scenes of abuse and recrimination fre-
 “ quently ensue ; similar, indeed, to what takes
 “ place on occasion of marriages, only upon a
 “ smaller scale.

“ The custom of anointing is considered in
 “ this country to be of the last importance ; so
 “ much so that no misfortune is accounted greater

“ than for a poor mortal to depart this life with-
 “ out its reception. The poor family are quite
 “ happy if the deceased has been anointed ; but
 “ are quite unhappy if this should happen not
 “ to be the case. This rite is often administered
 “ under most distressing circumstances — amid
 “ sickness, lamentation, destitution, and want ;
 “ yet money is demanded in most cases, parti-
 “ cularly in the country ; and instances occur
 “ of payment being demanded beforehand, and
 “ even of money being pocketed by the priest,
 “ which had been given as alms for the relief
 “ of the dying. Often when the money is
 “ not to be had, bitter words take place in the
 “ very hearing and presence of the poor dying
 “ person.

“ Masses, too, are priced like other rites
 “ of religion. A person is said to get a mass,
 “ or to have a mass said for him when spe-
 “ cial mention is made of him by the cele-
 “ brating priest, or when he is especially recom-
 “ mended to the Almighty at a particular part of
 “ the canon of the mass assigned for recommen-
 “ dations of the kind. This is supposed to

“ produce great spiritual, and perhaps tem-
 “ poral, benefit to the person so recommended.
 “ This recommendation is also supposed to
 “ benefit departed souls—that is, such as are
 “ detained in the prison of purgatory ; and this
 “ is the reason why it is said that the mass is
 “ offered for the living and the dead. This
 “ matter is particularly insisted on at a parti-
 “ cular season of the year—the Commemoration
 “ of All Souls—the second of November. Every
 “ effort is then made to interest the faithful in
 “ behalf of the souls in purgatory, in order to
 “ increase the customary contributions for mor-
 “ tuary masses. Doctrines are frequently ad-
 “ vanced on those occasions, prompted by cupi-
 “ dity, not very consonant to reason or the Scrip-
 “ tures ; and the congregation is led into error in
 “ order to replenish the coffers of the priest.”

“ In short, the entire system at present pursued
 “ by the Irish catholic clergy as to money
 “ matters, or matters of church finance, is to
 “ make the very most of their ministry in gross
 “ and in detail ; and, regardless of consequences,
 “ to render every part and parcel of religion,

“ whether we regard the administration of sacra-
 “ ments or the celebration of divine worship,
 “ subservient to considerations of self-interest.
 “ Other bad consequences regarding the clergy
 “ themselves arise out of the present system of
 “ church support. They are constantly endea-
 “ vouring to overreach and undermine one
 “ another. The consequence of all this is, that
 “ church revenue has become a mere scramble—
 “ every man striving to seize upon a larger
 “ share, and deciding for himself in the ap-
 “ propriation. This is a bad state of things;
 “ it is a shameful state of clerical demoraliza-
 “ tion. Common honesty is out of the question.
 “ Nothing but lies, schemes, duplicity, false re-
 “ turns ; so that the simple and the honest
 “ become the prey of the cunning and the crafty.
 “ Does not this system of clerical dishonesty
 “ strike at the root of public morals ? The
 “ morals of the pastor must have an influence
 “ on the morals of the flock. Will a priest who
 “ has no regard to the sacred rights of property
 “ be earnest in exhorting the people to the prac-
 “ tice of justice and fair dealing ? Or will not

“ the contagion of his example stimulate the
 “ evil propensities of human nature, and spread
 “ infection among the whole flock ? Let us view
 “ the conduct of the Irish priests this time past
 “ as instructors of their people. Have they in-
 “ culcated the principles of the Catholic religion ?
 “ Their congregations every where have shown
 “ an utter disregard to law and to the constituted
 “ authorities ; nothing among them but sedition
 “ and insubordination ; burning and maiming ;
 “ murder and massacre—mob-law, in short, the
 “ greatest of all curses, the order of the day.
 “ What did the priests—the guides and pastors
 “ of the people—do under these circumstances ?
 “ Did they set their faces against this unhappy
 “ state of things ? Did they preach obedience
 “ and subordination ? Did they inculcate sub-
 “ mission to the authority of law ; or aid in pre-
 “ serving the peace and tranquillity of society ?—
 “ all which they were bound to do as ministers
 “ of the gospel and priests of the Roman catholic
 “ church. This is a position that cannot be dis-
 “ puted. It has been always the boast of the
 “ Roman catholic church that she teaches her

“ children to observe the laws, to respect the
 “ civil magistrate, and to do nothing inconsistent
 “ with the public peace, and with individual
 “ security. The Irish catholic priests have not
 “ this time past preached these doctrines to the
 “ people. It would be too much perhaps to
 “ say that the priests themselves were the
 “ original instigators of the misguided multitude.
 “ There is no doubt that many of them acted a
 “ prominent part in the business ; *and the im-*
 “ *pression on the minds of the common people*
 “ *was and is that the priests gave it their full*
 “ *and unqualified sanction.* But many of them
 “ yielded reluctantly to the torrent ; and appeared
 “ to give their approbation to that which they in
 “ reality condemned. They went with the mul-
 “ titude instead of guiding the multitude ; and
 “ suffered religion and morality to be completely
 “ turned topsy turvy. What was the cause of
 “ all this ? Many causes, no doubt, may be
 “ assigned. National and religious prejudice
 “ might have had a share, sectarian hatred,
 “ cowardice, a general perversity of morals. But
 “ can it be said that the present state of clerical

“ dependence for support upon a capricious
 “ multitude had no share in determining this
 “ unbecoming conduct on the part of the Irish
 “ catholic priesthood ? The multitude held the
 “ strings of the clerical purse ; and woe betide
 “ the unfortunate priest who would set himself
 “ in opposition to their wishes. As a body they
 “ became all powerful in this respect. The
 “ common cry among them was, that they would
 “ not uphold any priest who would not back
 “ them in their proceedings ; and instances
 “ could be produced where this threat was
 “ carried into execution ; and upright individuals
 “ of the clerical body were made the objects of
 “ every species of injustice and persecution.
 “ The dread of poverty and of being cast off by
 “ those to whom they looked for subsistence con-
 “ tributed powerfully to make the body at large
 “ become mere time-servers, and overlook the
 “ obligations of their sacred ministry. It was a
 “ kind of general apostasy, arising from base
 “ considerations of self-interest : accordingly, they
 “ either preached or countenanced lawless com-
 “ bination.”

Now can any one, Protestant or Catholic, Orangeman or Repealer, contemplate this scene of rapacity, fraud, and misery, and then calmly and deliberately affirm that the system which has created it ought to be continued?—a system which can turn religion into a poison, and the priest into an accomplice of the incendiary and the murderer. It may be said, that the picture is exaggerated. In all probability it is so. Mr. Croly's book bears indeed the stamp of perfect sincerity and conviction, but there are few men, however sincere, who, when they have a strange and painful picture to represent, as affording the grounds for measures which they are anxious to promote, can avoid unconsciously heightening its features. But if only one half of what he relates be true, is not that half a sufficient motive for our interference? We are accustomed, and justly, to treat with contempt or indignation the grounds on which the repeal of the union is demanded: but if the imperial government refuses or neglects to inquire into the truth of these statements, or, supposing their truth to have been ascertained, to apply a

remedy, that question will assume a very different aspect.

But the Irish people, it may be answered, do not require a provision for their clergy; the clergy themselves would not accept one. Of course the agitators make no such requisition. They ask nothing which would diminish the power which is given to them by the crimes of their countrymen, or the wealth which is extorted from their ignorance and folly. And for many years the voice of Ireland has been heard only in the cries of the agitators, either Catholic or Protestant. It is possible that the fraud or violence of the real enemies of the country might for a time seduce or intimidate a portion of the priests into the rejection of a national provision; but there can be no doubt that by far the greater part of them would be eager to escape from their present precarious subserviency. Any other supposition imputes to them a mixture of wickedness and self-devotion which is scarcely conceivable. It supposes them willing to remain in insecurity and degradation, for the express purpose of

continuing a system, the consequence of which must become more and more frightful every day. It supposes them willing to be martyrs to mischief; to suffer, in order that evil may come of it. Nor do we believe that they would practically have the power to refuse. The taxation which they now impose has every quality which can render a tax oppressive. It is severe, arbitrary in amount, and irregular as to occurrence. It must of course be prohibited, under strict penalties, when the national provision is given, or the new income would be a mere addition to the former one, instead of a substitute; and we have no doubt that their congregations would enforce the prohibition by refusing to pay fees for which there would no longer be any pretext. On this point, as on all other questions, as to the probable conduct and feelings of the Catholics, both lay and clerical, in Ireland, when they shall have been placed in the same situation as they are in the rest of Europe, we refer to the feelings and conduct of the rest of the European Catholics. In every part of Europe, excepting in Ireland, a provision is made for the clergy, sometimes by

endowment, but generally out of the public income; and none of the evils to which we have referred, exist. The government does not complain of the disaffection of the clergy, nor the people of their exactions.

But the expense of a provision for the Catholic clergy will be complained of; and, in order to diminish it, it has been proposed to employ, in its aid, the surplus, whatever it may turn out to be, of the endowment now enjoyed by the Protestant Establishment. We will confess that formerly we were in favour of this plan, but subsequent events, and subsequent reflection, have changed our opinion. The violence of party, and the consequently low standard of public morality in Ireland are such, that every concession is, as a matter of course, attributed, in the first instance, to intimidation. The direct transfer of a portion of the revenue now belonging to one church, to support another, would not be treated as a mere measure of public policy, as merely the most convenient mode of effecting a desirable object, but as the triumph of one party, and the defeat of the other. As

neither party would attribute it to justice, a word which does not seem to be understood in Ireland, it would excite among the Protestants a mixture of anger and terror ; and among the Catholics, contempt and exultation, rather than gratitude, or even esteem. It might be considered as the beginning of the complete restoration to the Catholics of the whole protestant endowment ; and in the present state of society in Ireland, it is to be feared that means might be taken to accelerate that restoration, by forcibly diminishing the number of Protestants. If every parish in Ireland in which the number of Protestants shall fall below one fourth of the whole population, were thereupon, on the death of the existing incumbent, to be given over to the catholic church, we do not say that it would be setting a price on the heads of the Protestants, but we are sure that it would endanger their comfort and their property : and without inquiring more narrowly into the means that would be adopted, we are sure that the number of parishes so circumstanced would rapidly increase. And if this objection could be got over, a considerable time must elapse,

unless even worse means than those to which we have alluded should be resorted to, before any large surplus can be available, even if a large surplus exists.

But after all, would the expense be large, when compared with the object to be effected? The expense would be about 600,000*l.* a year, a sum not exceeding half the amount of the taxation which, under the late ministry, was every year remitted. The object is, the reconciliation of Ireland and England, and the spiritual and temporal welfare of six or seven millions of persons. The mere saving in the subsequent expense of governing Ireland, would be more than double the proposed expenditure. Troops are more expensive than priests. It must be added, that we are not proposing a new expenditure, an expenditure which is to divert the resources of the country from productive to what have been called, unproductive, purposes, as is the case when an increase is made in the army or navy, or in any other of our public establishments. The Catholic priests exist, and are paid. We propose that their payment should be borne by

the whole nation, which would scarcely feel it, instead of falling exclusively on a portion, and that the very poorest portion, of the community, whom it demoralises and crushes.

But we may be asked, would you then make a public provision for the Dissenters? It is not necessary to say whether we would or would not. The two cases stand on grounds perfectly distinct. The Dissenters, either never had an endowment, or had one from which they have voluntarily seceded. The Irish Catholic Church had once an ample endowment, which has been taken from it, under circumstances which could not have occurred if the governments of England and Ireland had been separate. Every one must perceive the difference between an act of liberality and an act of justice; between a gift and a restitution. But, waiving the question of right, we are content to rest the propriety of a provision for the Irish Catholic Church on the simple ground of its utility; as a remedy for a great and growing evil; as a remedy for a state of society of which the immediate effects are most mischievous, and

the inevitable consequences destructive. Let it be shewn that evils or dangers, equal, or even approaching to these, arise from the absence of a provision for the Dissenters, and we will advocate one, whatever be the sacrifice.

It is possible, however, that we may be told that this measure, however right in itself, ought to be opposed, because it will be made the foundation of ulterior demands. Of all political sophisms this is the worst. It is the tyrant's plea in its naked deformity. If such an argument were admissible, no abuse could ever be removed, or ever mitigated. For no concession can ever be made without giving rise to a hope of something more. On this ground Austria is justified in refusing any amelioration to Italy, or even Turkey to her christian subjects. The continuance of every oppression is justifiable if mere fears of further claims are a justification. The only wise, the only moral conduct in an individual or in a government, is to do *all* that is right, and to resist *all* that is wrong.

We have not the least hope that the Catholics, with their 'existent ignorance and exasperation,

will be *immediately* satisfied by the measure which we propose. We do not believe that, in the present state of their opinions and passions, they would be satisfied by any thing short of the full establishment of catholic ascendancy, as a most grinding and vindictive system of tyranny. We propose to give to them not all that they ask, but all that they are entitled to ; and we believe that, in time, they will acquiesce in an arrangement, which will have been made neither grudgingly nor timidly, but on intelligible principles of equity and utility. When these principles are the motives to a concession, they are also its limits, and are felt to be so. But the concessions to intimidation have no assignable limit except the absolute exhaustion of their subject matter. This was the reason why all the Duke of Wellington's concessions to the Catholics were utterly fruitless for the purposes for which they were intended. He has always practically given them to understand that they are to hope *nothing* from his *justice*, but *every thing* from his *fear*. To such a statesman it might be said respecting Mr. O'Connell, as was said to

the Athenians respecting Philip, "If this one
 "should die, your policy will soon raise up
 "another in his place."

We are now arrived at the last subject to which we proposed to advert in this Essay ;—the amelioration of our system, if it can be called a system, of Secondary Punishments. We shall dispose of it, however, very briefly, both because we have no specific enactments to propose, and because the whole question is in much better hands than our own. Those who can read the reports and evidence of the House of Commons on this painful subject, and the two Letters of Archbishop Whately, without being convinced of its importance and urgency, will not be influenced by these pages. We will call the attention of our readers to only one circumstance connected with it, and that merely because it is of recent occurrence ; we mean the influence of the Poor Law Amendment Act on the temptations to crime.

One of the most striking results of the Poor Law inquiry was the comparative scale of maintenance obtained by the independent agricultural

labourer, the pauper, the suspected thief, the convicted thief, and the transported thief; a scale rising from 122 ounces of food earned weekly by the labourer, to 151 given to the pauper, 181 to the prisoner before trial, 239 to the convict, and 330 to the transport. The Poor Law Commissioners showed, that under the late administration of the poor law, the pauper, in many districts, got an ample subsistence at the price of little or nominal work, and they inferred, as a necessary consequence, that the independent labourer, who got rather less food by hard labour, was in a less eligible situation than that of the pauper; and they further inferred, that such a system must, in time, ruin the *industry* of the labourers in those districts in which it prevailed. This reasoning was admitted by the legislature; and therefore the Poor Law Amendment Bill was passed, and the industry of our labourers protected from the seductions of pauperism. But what is to become of their *honesty*, if the convict, or even the prisoner, is to take the place of the pauper as the object of envy; if the judge, instead of the

overseer, is to award relief; if felony, instead of rags, is to be the means of escaping from honest industry? While the workhouse was, as some of the witnesses termed it, a blessed place, it afforded an asylum to those who, though resolved not to work, preferred its rather scantier fare, but comparative freedom, to the abundance and restrictions of a prison. But what will be our situation, if, while the allurements of the workhouse are at an end, those of the gaol continue? Such a state of things would, in one respect, resemble the Draconic system. Death would be the only punishment. And widely and profusely, indeed, must that punishment be inflicted, if it is to supersede every other. An amelioration of our present system of secondary punishment is a necessary accompaniment, we had almost said a necessary prelude, to every other measure intended to promote the improvement of the labouring classes; and particularly so to the diminution of capital offences. Our penal administration, even after all Sir Robert Peel's amendments, remains a disgrace to an European nation. It is sometimes

revoltingly cruel, sometimes mischievously lenient, always enormously expensive and deplorably inefficient. The penal law has already been made the subject of a government inquiry. The mode in which that law is applied demands inquiry far more. We suspect that the gaols would furnish evidence of magisterial wisdom quite as striking as the workhouses. As for the penal colonies, they show the wisdom of the successive governments which projected them, in defiance of all reasoning, and have maintained them in defiance of all experience.

December 31, 1834.

THE END.